

University of Texas
Publications

University of Texas Bulletin

No. 2305: February 1, 1923

The Merit System in American States
with
Special Reference to Texas

BY

BENJAMIN FLETCHER WRIGHT, Jr.
Instructor in Government

GOVERNMENT RESEARCH SERIES, No. 20

Government Research Division
Bureau of Extension



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The benefits of education and of useful knowledge, generally diffused through a community, are essential to the preservation of a free government.

Sam Houston

Cultivated mind is the guardian genius of democracy. . . . It is the only dictator that freemen acknowledge and the only security that freemen desire.

Mirabeau B. Lamar

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PREFACE

For nearly fifty years there has been a noticeable tendency in the administrative systems of American states to attempt to secure a greater measure of efficiency. It is the purpose of this bulletin to set forth the more important features of this movement so far as the state civil service is concerned. It makes very little claim to the presenting of new information, or even of new conclusions. Most of the material here presented has appeared in the reports of various commissions and administrative agencies having to do with the civil service, and is here gathered together in convenient form.

Inasmuch as it is very difficult for the average person interested in the problems of state government to secure brief treatments of the nature of the civil service problem and of the history of civil service reform in Europe and in the American federal government, it has been deemed advisable to provide such a summary as a background for the more thorough discussion of the progress of the merit system in the states.

The work was originally undertaken as a thesis to be presented for the master's degree. It was done under the supervision of Professor Charles G. Haines of the University of Texas, to whom the writer is indebted for his constant aid and advice, both in its preparation and revision.

B. F. W.

CHAPTER I

THE THEORY AND PRINCIPLES OF THE MERIT SYSTEM

1. INTRODUCTORY

The civil service of any state comprises all of the positions in the public service of that state excepting those which are included in the legislative and judicial departments and in the military and naval forces. Most nations have found it desirable to select a large part of the members of the civil service by a system in which appointment, promotion, and removal are based on merit. This division of the civil service, although it is usually very large, does not include all of the positions in the public service by any means, inasmuch as the higher officers of the executive department are usually selected by election or appointment, and in many cases most of the positions filled by ordinary laborers are likewise not included. The term "merit system" is applied to the system of rules and regulations which govern the selection and tenure of the public employees whose positions are included in this middle portion of the civil service to which mechanical methods of selection have been applied.

It is the purpose of this study to deal with the merit system in so far as it has been applied to the civil service of American states, and to give special consideration to the conditions existing in the civil service of the State of Texas. In order to secure the proper background for the study of local conditions and needs, it is necessary to consider briefly the growth of the need for the merit system, the principles underlying it, and the more important features of the merit systems of certain European countries and of the American federal government.

2. THE DEVELOPMENT OF THE NEED FOR THE MERIT SYSTEM

At the time of the adoption of the Constitution of the United States there was but one country—China—that had anything in the nature of a merit system for the purpose of selecting the members of the public service.¹ In all other states the ordinary method followed was that of appointment. Election to public offices extended, in the national governments, only to members of the legislative bodies. Even in the state and local governments of the United States selection by means of election was decidedly limited in scope as compared with the conditions prevailing at the present time.

In general, it may be said that at this time there was comparatively little need for the establishment of civil service rules to safeguard the selection of members of the public service because of a number of conditions then existing. In the first place, the administrative functions of the state were few in number and relatively simple of execution; not many of them required more specialized skill or training than was possessed by a man of moderate ability and education. In the second place, it was usually customary to retain efficient men in office for long terms. Thus there were comparatively few appointments to be made each year, and it seemed unnecessary to employ a mechanical system of selecting these few men.

There undoubtedly existed a considerable amount of corruption in office during this period, and it is not to be understood that there was no need for a merit system, but rather that the need was not great enough to bring about such a revolutionary reform. It is further to be noticed that the offices in which inefficiency and corruption were most frequent and most important, namely, the higher positions of the public service, were usually filled by favorites of the king or the ruling faction, and government had not become

¹C. R. Fish, *The Civil Service and the Patronage*, 1.

sufficiently democratic to permit of filling these offices by men trained for such service and selected by tests of merit.

But the political conditions which existed during the period preceding the adoption of the Constitution were not to be permanent. The Industrial Revolution, just beginning in England, was destined to change the social and political organization of the nations with which this study is concerned. The factory system with the resulting congestion of population in cities has caused a constant increase in the functions of government. The development of the use of steam, together with the opening up of vast areas of free land has resulted in the growth in importance of the lower classes—in greater democracy, both social and political. Both of these tendencies, the extension of the functions of government and the growth of democracy, have had important effects upon the civil service.

It is obvious that in assuming many new administrative tasks the size of the administrative forces of the state must be greatly increased. It is just as evident that many of these new functions are technical in their nature, e.g., highway construction and maintenance, public health administration, and the supplying of water and light, and consequently require men who have special training and experience in such matters to administer them efficiently. Thus a need for some effective method of selecting these specialists in various branches of the government service is created.

But at the same time that this need was developing, the growing democratization of government was making it almost impossible to meet the demand for trained public officers. There was a constant tendency to select more and more public officers by means of elections—a policy that is not suited to the securing of well trained men. Furthermore, there was a tendency not only to elect many officers but also to restrict their terms, in short, to secure rotation in office, and this was applied not only to elective officers but to appointed ones as well. It is to be noticed that in the

larger European nations rotation in office was never developed to the degree attained in this country. Even in the days when governments in Europe were most corrupt, and political considerations were given the most weight in appointments, the short terms and wholesale removals common in this country were rare.

When the policy of political appointments and removals had developed to its logical conclusion, there existed what is usually termed the "spoils system," the basic principles of which are short terms and rotation in office. The philosophy of this system, especially as it applies to this country, is best set forth by Andrew Jackson in his annual message to Congress, December, 1829, wherein he says:

The duties of all public offices are, or at least admit of being made, so plain and simple that men of intelligence may readily qualify themselves for their performance; and I can but believe that more is to be lost by the long continuance of men in office than is to be gained by their experience. I submit, therefore, to your consideration whether the efficiency of the government would not be promoted, and official industry and integrity better secured, by a general extension of the law which limits appointments to four years.²

The result of the policy of President Jackson in carrying out this dictum, based as it was on the growth of the democratic philosophy in the West, where governments were close to the people and where the people desired to participate in the actual affairs of government as much as possible, was the inauguration of the spoils system in its most intense form.

The advisability of such a system, even at the time of Jackson, is a debatable question, for while it undoubtedly did bring a great many people into closer contact with the government, it also resulted in a great deal of extravagance, due to the padding of employment rolls, especially during the period preceding elections, and other devices to reward

²J. D. Richardson, *Messages and Papers of the Presidents*, ii, 448. Quoted in Fish, *op. cit.*, 112.

the faithful at the expense of the government. The conditions that existed under the spoils system are thus described by Justice Peckham in *Rogers v. Buffalo*:

. . . the government is looked upon as an enemy's country, fit to be raided and conquered, and to obtain possession of it is a desirable thing, because all of the offices, within the gift of those who administer it, are lawful spoils of war, and to be parceled out by the chiefs of the victorious parties to their faithful followers in recognition of past political services, or in expectation of future support. Contests between political parties under these circumstances must, in the absence of some great and exceptional question, degenerate into mere struggles for the possession of the spoils of office, and they necessarily bring out every low, sordid and selfish quality of the participants therein, and corruption and fraud at the elections become the usual accessories thereto.³

Whatever may have been the advantages of the spoils system in 1829, it soon became evident that with the growth of governmental functions during the following half century, its defects were far more important than its merits; the spoils system could not be reconciled with an efficient and economical public service. The spoils system made it impossible for a trained man to remain in the service, for the larger part of the personnel of the government forces was changed every few years. Further, many of the positions were of such a nature that a man of ordinary ability and education could not master the duties of his position in a few weeks, or even months.

In order to remedy this state of affairs, and secure a merit basis for appointments and removals in the civil service, practically all of the leading nations have adopted civil service laws embodying the merit principle. These systems vary in many respects, but the fundamental principles and purposes of all of them are practically the same.

3. PRINCIPLES OF THE MERIT SYSTEM

The first and most important principle underlying all civil service systems is that the non-political offices of the

³123 New York, 178.

government should be distinguished from the political in the selection of public servants. Those offices which are policy-determining, where responsibility should lie directly to the electorate, are in their nature political, and should not be placed under any civil service regulations. But these offices are comparatively few in number, the great bulk of offices have to do only with the carrying out of previously determined policies. Here we find positions where no broad knowledge of the political conditions, of the general trend of affairs and of current policies is needed, but rather more specialized and exact training and experience in one phase of the public administration. Throughout the whole field of governmental activity there exists the distinction between lawmaking and determining upon general policies on the one hand, and the carrying out of these laws and policies and, in general, administering the business side of the government, on the other.

This distinction is not usually recognized in this country, and our administrative system suffers greatly from having many expert and experienced politicians in offices requiring ability and training of an entirely different character.⁴ The failure to recognize this distinction does not mean that it has no existence. There is a difference between the Democratic and Republican positions on certain issues presented for the people to vote on at elections. But after one of the parties has been placed in power and has determined, by law or other means, the policy of that administration, there is no Democratic or Republican way of building the roads, of dealing with the technical matters of crime and fire protection, of constructing irrigation projects, or in any other way carrying out the policies set forth by the political officers of the government.

Other principles of the merit system may be set forth briefly as follows:⁵

⁴See F. J. Goodnow, *Politics and Administration*, *passim*.

⁵See *Draft of a Standard Civil Service Law* by a committee of the National Assembly of Civil Service Commissions, 3-6.

First. The government should be controlled by the expressed opinion of the electorate; and the opinion of large groups concerning important political issues should not be dominated by the possibilities of securing the spoils of office. Without the merit system it is possible by using the power of the patronage as a threat of removal over present office-holders, and as a method of reward to office-seekers, to create a vast body of people interested in elections from selfish motives alone, an army of voters easily capable of turning the balance in close elections. Another frequently used method of influencing elections under the spoils system is the creation of many unnecessary offices just before elections; those holding these being, of course, ardent supporters of the party in power.

Second. That victory at the polls confers no right upon the victors to seize the non-political offices or to interfere with the efficient conduct of business. The civil service is the people's and nothing but the elective offices and the political policy determining offices should be won or lost at an election.

Third. The civil service should be efficient. Consequently, no one should be appointed to any public office unless he has demonstrated that he is better qualified to fill the position in question than any one else who also desires the appointment, and once having been appointed, he should be retained in the service of the government so long as he renders satisfactory service.

Fourth. The government should be a just and fair employer of labor. It should reward efficient and faithful service by security of tenure, by promotion, by creating proper conditions of employment, and by caring for those public servants incapacitated because of injury received in the service or because of old age.

It is to secure these aims that civil service systems have been devised. "The goal of civil service reform," said President Eliot, "is a public service, national, state, and municipal, composed of men, each of whom possesses the knowl-

edge and skill needed for his own task, well disciplined, devoted to their work, and to the public authority which employs them, and regarding their occupation as an honorable and satisfactory life career."

CHAPTER II

THE CIVIL SERVICE OF CERTAIN EUROPEAN STATES AND OF THE AMERICAN FEDERAL GOVERNMENT

1. EUROPEAN CIVIL SERVICE SYSTEMS¹

In considering the principal governments of Continental Europe, we find that, as a rule,² extensive and rather rigid civil service regulations have been found to be necessary in order to maintain a high standard of efficiency in the service of the government. However, these laws do not include the service in all governmental divisions. In both France and Germany³ the cities have not been forced to adopt civil service regulations in order to maintain a merit basis of appointments and removals. In France, although the mayor and his adjoints are not limited by competitive examinations in the appointment of subordinate officials and employees, it is the usual practice, in order to test the ability of the applicant, to have a rather long probationary period before the appointment is made final. Political mo-

¹On the extent to which the American civil service law was modeled on the systems of certain European countries, see Fish, *op. cit.*, 211, 215.

²Switzerland furnishes an interesting exception to the general rule, for in that country there are no laws or rules regarding the selection of members of the civil service. But in spite of the entire absence of any mechanical system to regulate the civil service, political motives in the appointment and removal of members of the service are rare, "the spoils system is virtually unknown," simply because public sentiment would not tolerate it. Cf. R. C. Brooks, *Government and Politics of Switzerland*, 121.

³In this study the civil service system of Germany is assumed to be substantially the same as before 1914; the writer has been unable to secure information regarding any important changes. So far as any information is obtainable on this point it seems to indicate that the administrative system has changed but little. See Article 129 of the new German Constitution (Translated by Munro and Holcombe).

tives in appointments are decidedly secondary to the question of fitness, and are practically unknown in the case of removals.⁴ The same is true of Germany. Although German cities, as a rule, have nothing that would be considered civil service regulations, the spoils system with all its evils is practically unknown. In the case of the higher offices, applicants must pass certain examinations, but after this is done, the Magistrat has full authority over appointments. Tenure during efficiency and liberal pensions on retirement are features that attract capable men to the service.

However, the municipalities form the exception in these countries. Civil service regulations are much more necessary in the case of the employment of hundreds of thousands of officials and employees by the national governments than in the case of the cities. The increasing difficulty with greater numbers is probably the reason for the adoption of such a system by the city of Paris. In this great city, employees are selected by competitive examinations; usually several times as many take the examinations as there is any possibility of providing for, and the applicants are of an unusually high type because of the excellent salaries, assured tenure, and pensions upon retirement.

The French and German civil service systems have much in common. Long and thorough preparatory training, probationary service before final appointment, good salaries, pensions upon retirement caused by old age or injury received in the public service, and a decided honor attached to all government service are common characteristics of the two systems.

All candidates for entrance into the higher service in Germany must have had a good secondary education and three years of law study at some university as a prerequisite. They must then take an examination on law, history, and political science, and prepare a dissertation on some designated subject. If they are successful in these preliminary requirements, they must serve a probationary period of four years, usually without pay, and finally take another,

⁴W. B. Munro, *Government of European Cities*, 89.

and more difficult examination before final appointment is made. In the case of technical positions, more stress is placed on practical training and experience. In the subordinate service merely a good secondary education, supplemented in some cases by legal or other more specialized training, is considered a prerequisite. In this case, the probationary period is ordinarily three years.⁵

In the French service the requirements are much the same. Applicants for technical positions are commonly required to graduate from government schools. Examinations are given not by a commission but by the head of the department or some one designated by him. However, in France, there are many more of the higher positions exempt from the civil service regulations than in Germany. These are filled by appointment by the highest political officers, and are therefore influenced not a little by political considerations.⁶

It can readily be seen that the systems of France and Germany are calculated to result in efficient administration of the business of the state. Securing, as they do, many of the best graduates of the universities, and requiring long periods of training and of probationary service, the men who enter the government service in these countries are the equal of those in any profession. But the question that at once arises when one attempts to weigh the advantages of such an organization is whether a system that removes the employees of the state so far from popular control has not the possibilities of becoming bureaucratic. If the mass of the people no longer have the power to control the officers of administration through the popularly elected officials, or come to look upon the administration as a thing apart from and above popular institutions, or worst of all, if the members of the permanent administrative forces cease to feel responsive to the wishes of the electorate, and develop among themselves a class feeling of superiority, the result can only be that the people will lose a large part

⁵F. J. Goodnow, *Comparative Administrative Law*, 46, ff.

⁶Goodnow, *op. cit.*, 48, ff.

of their interest in the government, and, in time, come to the point where intelligent self-government will be impossible. In the Germany of the period before the war, and to a somewhat lesser degree in France,⁷ many of these evils were present and were attributed to the existing administrative system. But if we discard everything pertaining to a permanent administrative service we have the extravagance and inefficiency of our own spoils system. What is needed, then, is a sort of "tempered bureaucracy," a system that will occupy a safe middle ground between the two extremes, and will combine as much of efficiency as may be consistent with popular control of the various policies of government.

One student of the English government, President Lowell, believes that the English civil service system comes near to achieving this position, in that it has been spared the bureaucracy of Germany and France on the one hand, and the spoils system and inefficiency of the United States on the other.⁸ Whether or not this be true, an examination of some of the fundamental principles of the English system should be of especial interest and benefit to the American student of civil service, since our first civil service law was strongly influenced in nearly all of its features by the study made by Dorman B. Eaton of the system in Great Britain.⁹

We find in the city government of Great Britain the same lack of need for civil service rules and regulations that characterized the cities of France and Germany. Throughout England, sound municipal tradition and sentiment regarding public office has resulted in an absence of the spoils system. Although there is nothing in the law to render

⁷See J. W. Garner, "Administrative Reform in France," in *American Political Science Review*, xiii, 17-46.

⁸A. L. Lowell, *Government of England*, i, 145. See also W. F. Willoughby, *The Government of Modern States*, 401. It is the opinion of this authority that the English civil service should be classified as an aristocratic system, as contrasted with the bureaucratic civil service of Continental Europe and the democratic system of the United States.

⁹Robert Moses, *The Civil Service of Great Britain*, 6.

wholesale removals impossible, such a thing is unheard of, and even appointments are influenced but little by political motives.¹⁰ Not only the towns and smaller cities but also the city of London, employing as many officials as it does, have found no need for civil service regulations in order to assure appointments according to the merit of the applicant.¹¹

In the national government, however, this has not been the case. Until the beginnings of reform in the civil service in 1855 the vast patronage of the ministry in control was used largely for the furtherance of partisan plans and gains. This condition "gave a powerful stimulus to the political corruption which, beginning with the cabinet and spreading downward through the House of Commons to the individual voter, poisoned the whole political life of the nation."¹² In the Parliamentary Report of 1854-5 we find the following extract:

Let anyone who has had experience, reflect on the operation of patronage on Electors, Parliament and the Government. Over each it exercises an evil influence. In the Elections it interferes with the honest exercise of the franchise; in Parliament it encourages subservience to the administration; it impedes the free action of a Government desirous of pursuing an honest and economical course, and it occasions the employment of persons without regard to their peculiar fitness. It is a more pernicious system than the mere giving of money to Electors or members of Parliament to secure their votes. It is bribery in its worst form.¹³

In spite of the policy of appointing because of political service or influence, rotation in office and wholesale removals for political motives never gained the widespread recognition and practice that it did in the United States.¹⁴ Rather was the patronage in England limited to vacancies

¹⁰W. B. Munro, *Government of European Cities*, 294, ff.

¹¹*Ibid.*, 362.

¹²Moses, *op. cit.*, 20.

¹³Vol. XX, 302. Quoted in Moses, *op. cit.*, 20.

¹⁴Moses, *op. cit.*, 24.

created by deaths, resignations, dismissals for other than political reasons, and the creation of new offices. Although England was spared the evils of rotation in office found in the American civil service of the same period, it was evident to leaders in political life of the nineteenth century that the Reform Bill of 1832 and later reform acts could not secure honest and efficient government until the civil service was reformed. This movement was brought to the forefront by the Report of the Commission on Civil Service in 1853. By Orders in Council, May, 1855, the first Civil Service Commission was created. By subsequent measures, the civil service laws have been extended and modified until the existing system has been developed.¹⁵

The foremost feature of the national civil service of Great Britain is the sharp distinction made between political and administrative officers. Those of the former type correspond in many respects to our Cabinet heads in the federal government. Being members of the Ministry, they change with the change in political parties and consequently are always in harmony with the majority party in the House of Commons. They are men trained in the methods and views of Parliament, whose purpose it is to furnish the lay element in the administration and to keep it in touch with the trend of popular opinion. With the advice of the permanent officers of the administration, the political head of the department lays down the general policies. It then becomes the duty of the permanent expert officers of the administrative service to carry out these policies. The latter type of officers are members of the permanent civil service who are selected by tests of ability and who hold office during good behavior.¹⁶

The Civil Service Commission of Great Britain consists of "such persons as His Majesty in Council shall have approved," who "shall hold their offices during the pleasure

¹⁵For a full discussion of this development, see Moses, *op. cit.*, Chapters II-VII.

¹⁶Lowell, *op. cit.*, i, 145, 173, 182.

of His Majesty.”¹⁷ To these commissioners is entrusted the task of maintaining the vast civil service system of the British Empire, excluding the self-governing dominions.

The English civil service is divided into two classes on the basis of the importance of the position and the educational and other attainments that the applicant must have.¹⁸ It is comparatively rare for a member of the civil service in the second class to be promoted to the first, and this fact has aroused not a little discussion among employees and civil service reformers.¹⁹

One outstanding characteristic of the English system is found in the nature of the examinations for applicants to the civil service. These are not practical tests of immediate fitness or specialized training, but rather tests of ability, and of the broad general knowledge of the candidates. For the higher posts, the examinations are based on the curricula of Oxford and Cambridge universities, many of the highest graduates of these famous schools competing for positions. In this way, the civil service gets men of ability and of excellent general education, and trains them through experience. Even in the second class, the examinations are aimed to test the general education and capacity of candidates, rather than specialized training.²⁰ Of course, in the case of positions requiring technical training, this rule must be modified. In case the head of a department and the treasury agree that for any position an examination is not desirable, it may be dispensed with and the position filled by appointment, and the commissioners may “grant their certificate of qualification upon evidence satisfactory to them that the said person is fully qualified in respect of age, health, character, and knowledge and ability.”²¹ When

¹⁷Order in Council of 10th Day of January, 1910, Part I, Section 2. Moses, *op. cit.*, 272.

¹⁸Lowell, *op. cit.*, i, 166.

¹⁹Moses, *op. cit.*, 211-245.

²⁰Lowell, *op. cit.*, i, 167.

²¹Order in Council of 10th Day of January, 1910; Moses, *op. cit.* 274.

there is any vacancy to be filled, a provisional appointment is made, but the candidate must serve a probationary period of from one to two years before his appointment is made final, and must demonstrate in that period his fitness to the satisfaction of the head of the department, who has final authority in such matters.

The first Canadian civil service law was adopted in 1908, and it has been revised and extended several times within the past few years. It is modeled largely upon that of England. In it we find the same characteristic feature of examinations to test capacity rather than fitness, and a growing tendency toward the training of boys for civil service as a career.²² The Australian system is also modeled after that of the mother country, although certain American characteristics are found in it, notably the stressing of efficiency records in determining promotions, rather than seniority, as in England and Canada.²³

From this summary of the experience of certain European nations in dealing with the problems of the civil service, it is evident that although it does not seem to be necessary to have mechanical methods of selecting members of the government service where public sentiment and custom support a merit policy of appointments and removals (especially in the cities, where there are fewer employees), none of the larger and more progressive states of Western Europe have, as yet, found it possible to secure governmental economy and efficiency without some form of the merit system. The details of the several plans vary according to the existing conditions, but in the main, the basic principles are much the same.

Inasmuch as the results of these systems have usually been much more successful than has been the case in the United States it might seem desirable to pattern our own civil service organization upon some one of them or upon a composite of all of them. But it is by no means certain

²²*Good Government*, xxxvii, 29; *Proceedings of National Assembly of Civil Service Commissions*, 1915, 14, ff.

²³*Good Government*, xxxvi, 8, ff.

that this would secure a panacea for our own ills, because the differences in our social organization and our political customs and machinery might be sufficiently great to make such a transplanted system a failure under American conditions. If we are to secure more effective reforms in American civil service we cannot expect to borrow much more than certain basic principles from the experience of other countries. We cannot transport any political institution bodily to this country and expect it to be an instantaneous success, for it is only by experience and changes wrought as a result of experience that a closer approach to perfection can be secured in governmental institutions.

2. THE FEDERAL CIVIL SERVICE

Positions in the federal civil service are, under the Constitution, to be filled by appointment by the President, either with or without the consent of the Senate, by the courts, or by the heads of the departments.²⁴ It was early decided by the Senate and subsequently recognized by the courts that the power of appointment implies that of removal as well. Consequently, the executive officers of the federal government have the power either to inaugurate the spoils system or to appoint and remove employees on a merit basis, for it is the use of the power of appointment and removal for partisan rather than public ends which brings about the spoils system.

It was long the common view that the spoils system in this country is to be attributed almost entirely to Andrew Jackson. But as Professor Fish has shown,²⁵ the practice of removal for partisan motives had its roots and much of its growth in earlier administrations.

We cannot know what would have been the policy of Washington and Adams if their administrations had followed instead of preceded a Republican régime. As it

²⁴Article II, Section 2.

²⁵*The Civil Service and the Patronage*, 1-104.

was, Washington gave comparatively little recognition to party alignment in making his appointments, although he was careful to select men friendly to the Constitution. The first dismissals for partisan reasons were probably in Adams' administration, there being some nineteen removals during his term that can be attributed to partisan motives. However, the Federalists were careful to fill the civil service with adherents of that party before they went out of office in 1801.

Consequently, when the Republicans under Jefferson came into power, they found a civil service composed almost exclusively of Federalists. At first, Jefferson removed very few, but gradually the number was increased; in all, 109 removals for partisan reasons were made, out of a total of 433 offices of the presidential class. In the filling of the newly created positions in the executive service of the government Jefferson was influenced strongly by party lines. "Technically," says Professor Fish, "one must assign to Jefferson the introduction of the spoils system into the national service, for party service was recognized as a reason for appointment to office, and party dissent as a cause for removal. It was not, however, the sole reason required; and, as has been shown, the character of the civil service was really not much changed."²⁶

During the administrations of Madison, Monroe, and John Quincy Adams, the practice of Jefferson in regard to the appointment and removal of members of the civil service was continued in varying degree. The only important development during this period was the passage of a law in 1820, fixing the term of a number of members of the civil service at four years, whereas their terms had previously been indeterminate. This measure seemed to be designed solely to furnish a large number of offices to be filled every four years. Its proponents, however, claimed that its purpose was the securing of more frequent checking up of public officials' accounts and greater financial responsibility. But, whatever its purpose, it is certain that an important

²⁶Fish, *op. cit.*, 51.

effect of the law was the widening of the patronage. The scope of this law was extended in 1836.

In general it may be said that, up to and including the administration of John Quincy Adams, although the idea had become fairly common "that past service rather than future efficiency should be the primary reason for appointment," there was little complaint of the efficiency of the civil service. The spoils system, although it had had a growth of more than thirty years in the national government, had not matured into the highly developed organism that it was destined to become.

At the same time that partisan appointments and removals and short terms in office were developing in the national government, two of the fundamental principles of the spoils system, i.e., the policy of using public office as a reward for political service and the idea of rotation in office, were developing in the states. In fact, the spoils system in the states antedates that of the federal government, for the theory of rotation may be traced to the formative period of state government, originally applying only to the higher elective officers, later to members of the civil service as well.

By the year 1828, in every state throughout the North and West the spoils system either was established or there existed an element eager to introduce it. The movement was a growing one, and it was but a question of time and circumstance when the custom would become national.²⁷

When Jackson came to office in 1829, the offices of the civil service were largely filled with men of the opposite party. Inasmuch as it was generally understood that he would reward his political supporters with government positions, vast crowds of office-seekers flocked to Washington to get something from the general distribution. His message to Congress in December, 1829 (part of which has been quoted, *supra*, page 10) left no doubt in the minds of the people that Jackson favored the spoils system in a more

²⁷Fish, *op. cit.*, 125.

decided form than any preceding president. Although he did not, by any means, make the clean sweep of officers that has generally been attributed to him,²⁸ his administration may be regarded as the inauguration of the spoils system in its most virulent form, partly because of his open advocacy of the system, and partly because of the relatively larger number of appointments and removals due directly to partisan reasons during his term of office.

The climax of the spoils system is to be found, not during Jackson's administration, but during the period from Polk to Lincoln.²⁹ During this period, it became the commonly accepted program for each change of administration, which involved the change in the party in power, to be the signal for the removal of the larger part of the members of the civil service and the filling of the vacant positions with political followers of the victorious party.

The presidential election became a quadrennial "event" with the civil service as the prize. Every fourth of March great mobs filled the capital, and the streets and saloons were crowded with men betting heavy expense and vast loss of time on the chance of getting something out of the hurly-burly.³⁰

The results of this periodical change in the personnel of the civil service soon became evident.

In place of a faithful and efficient civil service, based upon merit and experience, we have a corps of political intriguers whose first concern is with ways and means of retaining their places by rendering political services to the party managers. Under such conditions public offices cease to be regarded as public trusts, and the work of the government suffers by neglect or inefficiency.³¹

²⁸Of the presidential officers, 252 out of 612 were removed, Fish, *op. cit.*, 125.

²⁹*Ibid.*, Chapter VII.

³⁰*Ibid.*, 158.

³¹P. O. Ray, *An Introduction to Political Parties and Practical Politics*, 287.

A system in which party service was the chief qualification for holding office was not one that could be expected to select competent governmental officials. But even if capable men were placed in office under the spoils system they could hold office but a short period of time, for with the change of administration they were ousted to make room for supporters of the new party in power. Under such a system, some six months of every fourth or eighth year were spent by the new appointee in mastering the duties of his office. Such a system was obviously expensive, and was more than likely to corrupt the entire civil service to the detriment of public efficiency.

It is needless to say that the spoils system soon became the target of men interested in governmental honesty and efficiency, but it was believed by politicians to be so essential to the maintenance of party unity and strength that civil service reforms have been very difficult to secure. As a matter of fact, effective civil service reform has been secured in the United States in but a few instances, and in these cases the development in favor of the reform has been of slow growth, and has always been strongly opposed by political leaders.

The first important attempt at reform was in 1853, when an act was passed providing for classification of a comparatively small number of clerks in Washington, and "pass" examinations were required to be held by the head of the department before appointment to these positions.³² However, this reform proved to be of practically no benefit because of the ease with which its spirit, if not its letter, could be defeated in making appointments.

In 1864, Charles Sumner introduced a bill to apply competitive examinations to all appointments to the civil service. Although his bill attracted much comment and attention it was later dropped without action, doubtless because reconstruction occupied his time.³³ The first reformer to

³²Everett Kimball, *The National Government of the United States*, 225.

³³Fish, *op. cit.*, 210.

attempt to deal in a practical way with this question was Thomas Jenckes, a representative from Rhode Island. His first bill was lost in 1865, but he succeeded in having a committee appointed, with himself as chairman, to investigate the civil service systems of Germany, France, England, and China. The committee reported a bill in 1868, but it also was defeated in Congress.³⁴ However, this investigation served to secure much new information about civil service and to interest the people in it.

In 1871, a rider to an appropriation bill was passed in which the president was authorized to appoint a commission and to prescribe rules for the admission to the service. Although the departments at Washington and the federal officers in New York were placed under this law, its workings were but temporary, for in 1873 the appropriations for the continuation of the work were defeated. Some attempts to secure civil service laws were also made under Hayes and Garfield, but it was not until the assassination of President Garfield by a disappointed officer-seeker that public opinion was aroused sufficiently to force Congress to pass such a law.

The Pendleton Act (named after the chairman of the Senate committee on civil service reform, although it was really written by Dorman B. Eaton³⁵) passed both houses by large majorities in January, 1880, and was signed by the President. When the act first went into force, it applied to only about 14,000 places in the department offices at Washington and in the larger custom houses and post-offices,³⁶ but since that time its scope has been constantly increased, principally by presidential orders, until in 1917 there were some three hundred thousand offices filled in this way.³⁷ This total was greatly increased during the war, more than two hundred thousand being appointed

³⁴Fish, *op. cit.*, 211.

³⁵*Ibid.*, 218.

³⁶Lewis Mayers, *The Federal Service*, 44, ff.

³⁷Mayer, *op. cit.*, 84.

through civil service regulations in the one year ending June 30, 1918 alone.³⁸

All of the appointees of the president and Senate—administrative and judicial—are excluded from the operation of the merit system. Not only the heads of departments, but their higher assistants, the chiefs of bureaus and, in general, nearly all of the higher and more important, offices in the federal civil service continue to be political appointees. This condition is, of course, very different from that existing in England and Germany.

The law³⁹ provided, first of all, for a Civil Service Commission, to consist of three members, not more than two of whom shall belong to the same party, appointed by the president with consent of the Senate, and removable by the President at any time. It is the duty of the Commission to aid the president in carrying out the provisions of the act, by examining applicants, making regulations, etc. The Commission is to be aided by a chief examiner and local boards of examiners, selected by the Commission, and by a secretary, who is appointed by the president.

Competitive examinations are established for all positions in the classified service. They must be of a practical nature, and have direct relation to the work which the applicant will be expected to perform; in this respect differing fundamentally from the English system where the examinations are aimed to test general knowledge and capacity. While, in England, practically all of the men who take the examinations for entrance into the higher services have been educated in the universities, and even those in the lower branches must have a considerably better education than the average secondary school affords in the United States, a superficial "practical" knowledge, gained by a few weeks at one of the cramming schools that have sprung up all over the country, can make any person with a grammar

³⁸*Thirty-sixth Annual Report of the United States Civil Service Commission*, 158.

³⁹*22 Statutes*, 403.

school education competent to get on the eligible list. Examinations are graded on a basis of 100, a grade of 70 being necessary to secure a place on the eligible list.⁴⁰ The three highest names on the list are certified to the appointing officer who may choose one of them.⁴¹ All appointments are made for a probationary period of six months before the appointment is made final, the appointing officer being the judge of the efficiency of the probationer.⁴²

In the matter of appointments, there are three features which keep the system from being on a consistent competitive basis. The first of these is the provision giving preference to all military veterans disabled in the service of the government;⁴³ the second requires that not more than two members of the same family shall hold office in the classified service at the same time;⁴⁴ the third requires that "appointments to the public service aforesaid in the departments at Washington shall be apportioned among the several states and territories and the District of Columbia upon the basis of population as ascertained at the last preceding census."⁴⁵ In regard to the first sort of exception, there can be little opposition unless, as has too often been the case, inefficient veterans are appointed over efficient applicants. In such case, the system ceases to be a merit system and becomes an expensive method of granting pensions.⁴⁶ The second exception is little short of absurd in a service that includes some three hundred thousand employees in ordinary times. The third is a typical result of a congressional system in which each congressman believes it to be his highest duty to secure as much for his constituents as possible regardless of the results to the public treasury. Such a policy often results in having some applicants placed

⁴⁰*Civil Service Rules*, vi, sections 1, 2.

⁴¹*Ibid.*, vii, section 1.

⁴²*Ibid.*, vii, section 1.

⁴³*Civil Service Act* (22 Statutes, 403), section 7.

⁴⁴*Ibid.*

⁴⁵*Ibid.*, section 2.

⁴⁶For discussions of veteran preference in connection with the recent war see *Good Government*, xxxvi, xxxvii, *passim*.

over others whose grades were much higher, simply because the state from which the former came was not so well represented in the civil service as was that of the latter. It might be wise to require that cabinet officers should come from different parts of the United States, and thus secure a diversity of interests in that body, but the members of the civil service are not policy determining officials and there is no need to place sectionalism above efficiency in this service.

Political activities on the part of any employee of the civil service is prohibited in the Civil Service Act.⁴⁷ Such a person may contribute neither money nor service to political campaigns, nor may a congressman make any attempt to influence civil service appointments.

Promotions in the civil service are made on the basis of practical examinations, efficiency tests kept of the employee's record, and recommendations made by the officer under whom he has served.⁴⁸ As contrasted with the English system, comparatively little weight is accorded to seniority.

Removals in the civil service may be made by the head of the department or other superior officer. The civil service rules provide that there shall be no removals "except for such cause as will promote the efficiency of the service";⁴⁹ and although the officer making the charge must give written notice to the employee in question and permit him to make a written answer thereto, the higher officer is not required to secure the consent of the Civil Service Commission in making final disposal of the case. However, the papers in the case must be filed with the Commission and in the records of the department.

The United States government has always been at a decided disadvantage in the matter of salaries to its employees, in comparison with other governments, because of the much higher salary scale in private industry in this

⁴⁷Section 2.

⁴⁸*Civil Service Rules*, xi.

⁴⁹*Ibid.*, xii.

country. Because of the comparatively low salaries paid by the government, there is an annual resignation list from the civil service that is much greater than it should be, and these resignations usually come from the most capable men in the service, who are resigning to accept much higher salaries in private employment.⁵⁰ Either the government must raise its wage scale or be content with the inefficient.

⁵⁰Moses, *op. cit.*, 267.

CHAPTER III

THE MERIT SYSTEMS OF AMERICAN STATE GOVERNMENTS

1. THE GROWTH OF STATE AND LOCAL MERIT SYSTEMS

The spoils system, as has been pointed out, really originated in the state governments and was transplanted to the federal service. But, in spite of this fact, none of the states made any attempt to remedy the evils of the spoils system until after the adoption of the Pendleton Act in the federal government.

The first state law dealing with civil service reform was that of New York, which followed only a few months after the passage of the federal statute in 1883. The following year Massachusetts passed a similar law. A period of comparative inactivity ensued until 1905, since which time progress in state civil service legislation has been comparatively steady, excepting in a short period following 1915 when a temporary reaction appeared in certain states.¹ In 1905 Wisconsin and Illinois enacted laws that placed a part of the civil servants of the state under the merit system. Laws of varying scope have also been passed in Colorado in 1907, New Jersey in 1908, Connecticut,² California, and Ohio in 1913, and Kansas in 1915.³ The latest state to adopt such a system is Maryland whose law passed during the 1920 session of the legislature.⁴ In 1911 the Illinois law was extended to include the entire state service; while, in 1912, Colorado, by means of the initiative and referendum, provided for appropriations that had been withheld by a legislature that was opposed to the merit system, and extended

¹J. M. Mathews, *Principles of American State Administration*, 195.

²The Connecticut law was repealed in 1921.

³A. C. Hanford, "A Report on the Civil Service Laws," 919, in the *Report of the Illinois Efficiency and Economy Committee*, 1915.

⁴*Good Government*, xxxvii, 59-61; Chapter 41 of the Acts of 1920.

the scope of the law.⁵ In 1918 the same state placed the merit system beyond the jurisdiction of the legislature by means of a constitutional amendment, at the same time extending the scope of the merit principle.⁶ Two other states had previously insured the permanence of their laws by similar constitutional provisions—New York and Ohio.⁷

The state civil service laws have been attacked in the courts of at least four states, namely, New York, Massachusetts, Wisconsin, and Illinois, on the grounds of unconstitutionality.⁸ However, in no single case has such a law been declared unconstitutional. On the other hand, the courts have consistently held that "statutes looking to the purpose of ascertaining whether candidates for an appointive office are possessed of those qualifications which are necessary for a fit and intelligent discharge of the duties pertaining to such office are not dangerous in their nature, and in their execution they are not liable to abuse the liberties of the people."⁹ The laws seem to be in no danger from the judicial veto, but when they are not made a part of the constitutional law of the state they are at the mercy of legislatures, who, for political reasons, desire to see a return of the spoils system. A legislature so minded can render the state law of little or no value, although on the surface seeming to support them. Such has been the experience of Colorado and Connecticut; the experience of the former with such a reactionary legislature being the direct cause for the adoption of the constitutional amendment in 1918.¹⁰

Progress in civil service legislation has been more rapid in the case of cities than states. In the first place, five of the state laws apply to all or part of the local divisions of gov-

⁵*Ibid.*, xxix, 114.

⁶*Ibid.*, xxxv, 181-183.

⁷Hanford, *op. cit.*, 918.

⁸B. A. Arneson, "The Constitutionality of Merit System Legislation," in *American Political Science Review*, xiii, 593-606.

⁹*Rogers v. Buffalo*, 123 N. Y. 173 (1890).

¹⁰*Proceedings of the National Civil Service Reform League*, 1919, 39.

ernment as well as the state service.¹¹ In addition to the cities and counties of these states, a large number of cities have adopted the merit system on their own initiative, until today this group includes practically every large city in the United States, and totals in all some two hundred and seventy-five.¹² There are also some twenty-six counties under civil service regulations,¹³ not including Denver and San Francisco counties where the law is administered by the city commission.

2. FEATURES OF THE STATE CIVIL SERVICE LAWS

Scope of Laws. The civil service laws of New York, Massachusetts, New Jersey, Ohio, and Colorado apply in varying degree to the civil service of the cities, counties, and towns within the state, as well as to that of the state.¹⁴ That of New York requires that all counties and cities adopt such a system, and places the civil service of the counties and smaller towns under the direct jurisdiction of the state commission. It also grants extensive supervisory power over the city systems to the state commission, inasmuch as it may annul any rule of the city commission, and, in certain cases, may remove a city civil service commissioner and appoint someone to fill the vacancy. In Massachusetts the law may be adopted by both counties and cities if they desire to do so. In such case the state commission has direct control over the administration of the law in the locality. This commission also has the extraordinary power of approving or disapproving the appointments made by the mayor of Boston to the heads of the municipal departments,

¹¹A. S. Faught, "A Review of the Civil Service Laws of the United States," *National Municipal Review*, iii, 325.

¹²*Proceedings of the National Assembly of Civil Service Commissions*, 1919, 184-5.

¹³*Ibid.*

¹⁴Hanford, *op. cit.*, 926. Much of the material for this section has been drawn from the schedule of civil service laws prepared by Professor Hanford. Changes that have taken place since this schedule was prepared have, however, been included.

it having full power to reject any appointment, if, in its judgment, the appointee is not qualified to fill the position. The New Jersey law provides that any city or county may adopt the provisions of the state law, in so far as they may be applicable, by a referendum vote. As in Massachusetts, the state commission has complete control over the administration of the local as well as the state systems. The Ohio law applies to state, county, city, and city school district services. The state commission administers the law for the state and the counties, and has a slight degree of supervisory control over the city commissions. In Colorado any city of the first or second class may adopt the provisions of the law.

Classified Service. All of the state laws divide the civil service into the classified and the unclassified services, positions in the former being filled under the merit system, positions in the latter being filled by election, or by appointment without any restrictions (other than the meeting of certain qualifications) being placed on the appointing officer.

The usual policy in civil service laws is to specify the positions that are to be outside the civil service regulations, and then to provide that all other positions in the state service shall be filled by tests of merit. In certain laws the commission is given power to remove such positions as it may deem desirable from the operation of the merit system, but usually only after a public hearing on the matter. In Ohio, the commission "may in its discretion exempt from test and competition" the higher subordinate offices and "all other offices or positions for the filling of which competitive or non-competitive tests shall be found by the commission to be impracticable." A unique provision was found in the Connecticut system. By amendment to the original civil service law "elective officers were authorized to exempt the employees of their departments at will," and "the Governor was given authority to exempt any department, board, or commission, or employees, or group of employees in the classified service."

The most significant fact about the content of the classified service is that the really desirable and responsible posi-

tions in the civil service are almost invariably exempt from the workings of the merit system. Not only are the heads of departments selected by means of election or appointment, but most of their higher assistants as well are selected by appointment, a system that usually gives far more weight to political service than to ability and experience.

Civil Service Commissions. All of the states have commissions composed of three members, except New Jersey, which has four and Maryland, the most recent state to adopt a civil service law, which has taken an unusual step, so far as American civil service practice is concerned, by providing for a single commissioner instead of the usual board.¹⁵ The commissions of all of the states are appointed by the Governor, usually with the consent of the upper house of the legislature. The term of office varies from three to six years, the longer term predominating. In certain states the governor's discretionary power is limited in such appointments by provisions in the law requiring that certain qualifications be fulfilled in making the appointments. For example, the Kansas law requires that one member must be a member of the faculty of the state university, another a state accountant, and a third a state officer. It is ordinarily within the power of the governor to remove any member of the commission for stated cause.

The commissioners receive regular salaries, and are consequently expected to give full time to the position, excepting in Wisconsin, where the pay is ten dollars per diem, and in Colorado where the commissioners serve without compensation.

In their general outlines the duties of the commissions vary but little in the several states. They are empowered to classify all positions to be filled by the merit system, to give examinations to fill these positions, and to make rules and regulations to carry out the provisions of the state act and govern the employees in the civil service (under the Colorado law these rules and regulations may be disallowed

¹⁵*Good Government*, xxxvii, 59-61.

by the governor). To aid the commission in performing these functions there is usually a secretary, a chief examiner, and a staff of assistants and clerks. The Kansas law provides that the office of secretary and chief examiner must be filled from among the members of the civil service commission.

Present Employees. About half of the state laws are silent on the subject of the status of employees who were in the service before the law was passed, presumably leaving that problem for the commission to regulate by means of its rules. The other states, however, provide that employees already in the service shall be included in the civil service without examination. The Ohio law provides that such employee shall take an examination to test his fitness for the office he holds, within a period of twelve months after the law goes into effect, as a condition to continuing in the service. Under the Kansas statute any one who has been in the service less than six months may be required to take a non-competitive examination to demonstrate his ability to perform the duties required of him.

Examinations. Like the federal act, the state laws almost invariably require that the examinations shall be practical in their nature and designed to test the immediate fitness of the applicant for the position in question. The formulation of rules setting forth the qualifications which applicants for any given civil service position must have is ordinarily a matter that is left to the discretion of the civil service commission. An exception to this is found in a number of state laws which limit applicants to citizens of the state; while in New York those who apply for positions in the service of any county, town, or city must be residents of the judicial district containing this local division. These rules vary with the nature of the position, but in nearly all cases have to do with the age, sex, health, moral character, and in a few instances, with the educational and technical training of the applicants. The examinations for the various positions to be filled are prepared usually by the commission or its agents, although in one or two states the rules

provide that in the case of certain offices requiring technically trained men, the head of the department shall prepare the examination.

Appointments. Most of the state laws follow the federal precedent in requiring that the commission certify to the appointing officer the names of the three who stand highest as a result of the competitive examinations, from which number the appointing officer may choose at his discretion. Illinois and Colorado, however, provide that only the one standing highest shall be certified, while Kansas provides that a "limited number not exceeding three shall be certified," and Maryland that the appointing officer shall choose from the five highest on the list of applicants. Several laws specify that if a person is certified three times and not appointed, his name shall be dropped from the list. Unlike the federal practice, temporary or probationary appointments are the exception in the state laws. Temporary appointments may be made for not exceeding two months in Wisconsin, and for not more than one month in Illinois and Ohio.

In the federal law and several of the state laws veterans who had served in the military forces of the United States were accorded a preference in appointments. Since the termination of hostilities in the recent war, several other states have passed supplementary legislation according veterans of this war preference. In some cases this preference is slight, the veteran receiving a preference only when his standing on the examination is substantially the same as that of the other applicants, but other states accord him a preference over those who have a much better showing on the examination.¹⁶

Most of the places in the civil service are filled by appointment from among those who have taken competitive examinations, but "there are certain places of a technical or con-

¹⁶For a discussion of veteran preference, and information concerning the states that have passed such laws recently, see *Good Government*, xxxvi, xxxvii, *passim*; *Proceedings of the National Assembly of Civil Service Commissions*, 1919, *passim*.

fidential nature for which competition has not been regarded as practicable, and in most of the laws the civil service board has been given considerable power to exempt a position from examination or provide for its filling upon a non-competitive test.”¹⁷ The laws of New York, New Jersey, and Wisconsin permit the commission to declare any position in the non-competitive class or to exempt them from examination altogether. In most of the other state laws the commission is given power to fill such positions as it may deem advisable upon a non-competitive basis, and about half of them permit a suspension of the rules in individual instances when the commission believes it to be for the best interests of the service. “The Illinois statute on the other hand, is very rigid so far as exemptions are concerned; all positions in the classified service without exception, are filled after competitive examinations, and the commission has no power to classify a place as exempt or non-competitive.”¹⁸

Promotions. The state laws ordinarily provide that promotions shall be made, so far as is possible, from among the employees in the same department. There is frequently a statement that promotions shall be made on the basis of merit, but the details are left to the commission to work out. Some of the states have adopted a system of keeping efficiency records of the members of the classified service, and these are of course given considerable weight in determining promotions. Seniority and experience in the service are also taken into account, and in many cases special examinations are given to test the employee's capacity to fill the higher position. The weight that will be accorded to each of these varies with the state and with the position in question.

Removals. As in the case of the federal law, the earlier state laws put few restrictions on the removing power of the officer responsible for the appointment, excepting pro-

¹⁷Hanford, *op. cit.*, 923.

¹⁸Hanford, *op. cit.*, 923.

visions prohibiting removals for political reasons. But in the more recent laws

... the tendency has been in the opposite direction, and today New York is the only one without a positive restriction upon removals. In Wisconsin, New Jersey, Colorado and Ohio,¹⁹ the only limitations are that an employee shall not be removed except for cause, that he shall be furnished with a written notice and given an opportunity to answer the same, and that a copy of the notice, etc., must be filed with the Civil Service Commission. In these four states the appointing power is given rather wide discretion to remove a subordinate, so long as he does not make the dismissal for political reasons and follows the general procedure outlined in the state.²⁰

However, in the other states the procedure is not so simple. In California, removals are not to be made except for cause and after a hearing, the civil service board being given concurrent power with the appointing officer to discharge an employee, the decision of either against the employee being final. "The California system does not limit the discretionary authority of the appointing officer to dismiss an incompetent person any further than do the Wisconsin and New Jersey plans, but from the standpoint of discipline, it involves a division of responsibility."²¹ The civil service laws of Massachusetts, Illinois, and Colorado place the most stringent restrictions upon removals. In Massachusetts, the employee is not only entitled to a hearing before being removed, but is also at liberty to appeal to the courts which have the power to annul the action of the officer who made the removal. "In Illinois, the discretionary power of the appointing officer is almost completely taken away and the sole responsibility for the discharge rests with the civil

¹⁹Although the original civil service law provides that no trial shall be "required," as Professor Hanford points out, the more recent rules (See Rule XII) make provision for such an investigation by the Commission if the employee desires to appeal his case to the Commission.

²⁰Hanford, *op. cit.*, 923.

²¹Hanford, *op. cit.*, 923-4.

service commission, as a hearing is granted before the commission in all cases, and the decision of the board is made binding upon the superior officer."²² The more recent Kansas law is much like that of Illinois as regards removals, the civil service commission having final authority in all cases.

Miscellaneous. In several states the commission is instructed by the civil service laws to make investigations concerning the manner in which the civil service act and the rules and regulations of the commission are being carried out. In Illinois and Ohio the commission is further instructed to investigate the efficiency of the employees in the civil service and to report its findings to the head of the department. In Ohio, a report of the commission that the record of an employee is unsatisfactory is sufficient grounds for dismissal. The California commission has power to discharge any employee whom it may, after such investigation, find to be performing inefficient service.

All of the state laws have some provision prohibiting appointments or removals for political reasons. The Colorado and Ohio laws forbid employees to take any part in a political organization or campaign.

Local Civil Service Laws. In addition to the counties under the jurisdiction of the state civil service commissions in New York and New Jersey, there are several counties, all of them containing large cities, that have adopted civil service systems to govern the appointment and removal of public employees. These include Los Angeles County, California, Cook County, Illinois, Milwaukee County, Wisconsin, Denver County, Colorado, and San Francisco County, California, where the city and county commissions are combined.²³ The civil service laws vary little in their prin-

²²*Ibid.*

²³*Proceedings of the National Assembly of Civil Service Commissions*, 1919, 185. A. S. Faught, "A Review of the Civil Service Laws of the United States," in the *National Municipal Review*, iii, 325.

cial features from those of the states in which they are found.

At the present time there are nearly three hundred cities having civil service regulations. Most of these, excepting in those states where the law applies to all cities, are among the largest in the United States. The cities of great population have found that with the present state of public sentiment in regard to the spoils system, they cannot secure a large staff of efficient employees without adopting the merit system.

In most features the city laws or ordinances closely resemble those of the states. In the method of constituting and the powers of the commission in some of the states there is, however, a decided difference. For, although the city commission is usually appointed by the mayor, or the mayor and the council, in New Jersey and Massachusetts the city commission is dispensed with and the law administered by the state commission for all cities, while in other states, as New York and Ohio, the state commission takes a considerable part of the independent power of the city commission away from it through its power of supervision.²⁴

3. THE ADMINISTRATION OF STATE MERIT SYSTEMS

In general, the administration of merit systems is divisible into two broad divisions: first, the selection of employees through a system based on tests of merit, and second the regulation of the various matters having to do with the terms of employment of these officials in the classified service. But this grouping fails to give an adequate conception of the field of administration, for under the first division come the problems connected with the preparation, advertising, holding, and grading of examinations, the certification of those making the highest marks, the holding of special non-competitive examinations, and the awarding of exemptions from examinations where this is desirable and

²⁴W. B. Munro, *Government of American Cities*, 3rd ed., 277-9.

legal. In the second group we find such matters as transfers, suspension and removal, reinstatement, promotions, the certification of payrolls, and the keeping of service records.

It is apparent from this summary of the work of the civil service commission that the administration of the merit system laws which apply to thousands of employees in each of the larger states is no small task. It involves an immense amount of detailed work, much of which is of a highly technical character, and requires the services of men of high ability and thorough training. With similar laws the results obtained under the merit systems of two states might be very different because of the difference in ability of the two civil service commissions and of their assistants.

General Organization of Administration. The general organization of, and the regulations governing the operations of the civil service commission are set forth in the civil service laws, and to a very limited extent in the constitutional provisions of the states having such sections in their constitutions, the Colorado constitutional provision being the most inclusive. The laws are supplemented by the rules which the commission adopts for the regulation of the civil service administration. Most of the commissions have also adopted regulations dealing with the relations between employees, pay-rolls, examination fees, and other routine matters of employment control.

Classification. First of all, the rules usually set forth a classification of all those positions in the state civil service which are to be filled by means of the merit system. There is no uniform way of classifying the members of the civil service; in fact no two of the methods are exactly alike. In general, however, the classification seems to be based upon the institution or department of the state government in which the position is found, rather than upon the nature of the work required and the salary attached to the position.

Examinations. The various matters connected with examinations occupy a considerable part of the activities of

the commission and its assistants. In a number of cases, e.g., New York, there is a separate officer—the chief examiner—who has special supervision over this work. His duties include the “planning and satisfactory progress of the examinations, development of satisfactory standards, improvement of examining methods, preparation of necessary forms for administrative and recording purposes, rating of papers and the preparation of lists of eligibles qualified for appointment.”²⁵

All of the states have, in varying degrees, followed the practice of the United States Civil Service Commission in the matter of advertising examinations. The usual practice is that of posting lists of positions for which examinations will be held upon a given date, together with such information as the required qualifications, salary range, and the general nature of the examination, in the public buildings throughout the state. A more effective method that is just beginning to be used is the advertising through the medium of the public schools, technical schools, and colleges. In this and other new methods the Wisconsin commission has instituted a number of interesting experiments.²⁶ The promotion of discussion in the women’s clubs of the state, vocational conferences, an exhibit at the state fair, and a state-wide essay contest on civil service subjects among the high school students are among the advertising mediums employed by this progressive commission. Where the newspapers can be interested in the merit system, as in the case of two of the New York City papers, the free publicity which they give through the news columns is usually much more valuable than a much greater amount in the advertising section.

Whatever the method employed, some successful means of advertising must be used if all of the positions in the civil service are to be filled by capable employees. The

²⁵*Second Report of the New York Senate Committee on Civil Service, 1917, 29.*

²⁶*Report of the Wisconsin Civil Service Commission, 1918, 52.*

commissions have been forced to realize this and, as a result, new methods of securing the necessary publicity are constantly being devised.²⁷

The civil service commissions find it advisable to hold examinations for most of the subordinate positions, where many employees are needed, fairly regularly, and thus maintain a reserve of a large number of eligible candidates for such positions.²⁸ But in the case of positions requiring a higher order of ability and training, which positions usually require filling only at comparatively long intervals, difficulties inevitably arise because of the delay which is incurred by the advertising of the examination, the holding of the examination, and the grading of the papers.²⁹ However, such changes do not come very frequently, and in most cases they can be anticipated and prepared for ahead of time, e.g., when notice is given of contemplated resignation, or in case of promotion or dismissal.

It is the practice in most states to hold examinations, or at least the preliminary steps in such examinations, in a number of "local centers" simultaneously throughout the state.³⁰ This system gives an equal opportunity to take the examinations to those living in many parts of the state, and does away with much of the expense and waste of time that might otherwise keep many competent people from taking the examinations.

It has been pointed out that the civil service commission is given the authority in most states to give a non-competitive examination in any case where this seems advisable.

²⁷For a discussion of the advertising devices employed in Canada, see *Proceedings of the National Assembly of Civil Service Commissions*, 1919, 102.

²⁸See, for example, *Report of the State Employment Commission of Maryland*, 1921, 7.

²⁹Cf. *Report of the New York Civil Service Commission*, 1920, 14-15. In the case of examinations for the highest positions filled under civil service rules, the examinations are frequently given by outside experts.

³⁰See, for example, *Massachusetts Civil Service Commission, Reports for 1914 and 1917*.

Ordinarily the number of such exceptions is comparatively small, they being made only in case of positions requiring special training and experience where it is clearly inexpedient to give a competitive examination. But in some few cases this rule has been badly abused during a lax enforcement of the civil service system by a commission not whole-heartedly in favor of the merit system. In New York, for example, there were 3,353 non-competitive examinations held during 1914,³¹ a number entirely out of proportion to the needs of the service. If such a practice is long continued in any state it can but mean that the spoils system is beginning to regain control. The competitive principle is an essential of the merit system, for it assures a fair opportunity to the applicants and the service of the best qualified candidates for the state.

The California commission has the rather extraordinary power to remove any position from the classified service; but in practice this power has been used very infrequently. The commission has, however, after a trial, believed it advisable to exempt certain positions from the workings of the civil service law.³²

Eligible Lists and Certification. It is usually provided that the names of those who make a grade of 70 per cent or better on the examination (and have, of course, the other qualifications required in the particular type of work in question) are to be placed upon the eligible list. From this list those having the highest standing are certified to the appointing authority when a vacancy arises. The Illinois commission states that "promptness in certification, in many ways the most important and responsible work in the office, has been aided by a division so that one employee handles all the details of certification of attendants, domestics, and laborers, while another cares for all other positions."³³

³¹*Second Report of the New York Senate Committee on Civil Service*, 1917, 17.

³²*Report of the California Civil Service Commission*, 1918, 12.

³³*Report of the Illinois Civil Service Commission*, 1917, 39.

Provisional Appointments. The ordinary course of appointment is examination, certification, probationary appointment, and final appointment. But, to fill vacancies for which no eligible candidates are available,³⁴ provisional or temporary appointments may usually be made. Such a provision in the law seems necessary, especially in times of labor shortage, and in the case of a number of new positions being brought under the merit system.³⁵ But, on the other hand, the policy is subject to serious abuse. In Massachusetts it was formerly the policy to allow anyone appointed provisionally to become permanent after one year's service, without examination. But it was found that this custom was taken advantage of in getting men into the service who were not qualified for their positions, and consequently the policy was discontinued. In New York

The abuse of such an arrangement is shown by the fact that appointments under this provision increased from 244 in 1911 to 1108 in 1914, and that the law limiting such appointments to two months was openly violated. Such limitation often produces conditions in the state service which would not be tolerated in business. The present commission recognized this and suggested an amendment to the law extending the time of provisional appointments to four months, in order to give time for examination, and has enforced the time limits of such appointments to the letter. Largely through the efforts of the present commission, the number of provisional appointments during the year was 59 per cent less than those made in 1914.³⁶

Transfers. Another problem which the civil service commissions have had to deal with is that of transfers. By getting transferred from the unclassified to the classified service it was possible to evade the examinations entirely. It has also been possible in some cases to secure a transfer from a lower to a higher position in the classified service,

³⁴Vacancies, for example, of the type mentioned on page 56, *supra*.

³⁵*Reports of the Ohio Civil Service Commission, 1919, 4-5; of the California Civil Service Commission, 1918, xxx, 8.*

³⁶*Second Report of the New York Senate Committee on Civil Service, 1917, 17.*

and thus to avoid the usual tests of service and ability upon which promotion in the civil service systems is based. In order to prevent this abuse, restrictions upon transfers have been inserted in practically every state law. In some cases it is permissible to transfer an employee from one class, or from one department, to another, providing certain requirements as to length of service, consent of the commission, etc. are met. In California

It is impossible, under the civil service act, to transfer an employee from one class to another, even in the same department. The principle sought to be protected by this provision is a good one, namely, to prevent the transfer of an employee holding a position with minor responsibilities and corresponding compensation, to a position requiring those of a higher or substantially different character with, of course, greatly increased compensation. This wise principle may not only be maintained, but the better carried out, by substituting for the arbitrary requirement that transfers cannot be made from one class to another except by the unanimous consent of the commission.³⁷

Certification of Payrolls. The New York Civil Service Commission asserts that one of the most important of all the administrative duties performed by the commission is the certification of payrolls.³⁸ Under the New York statute, and several other laws contain much the same provision, the commission is required to make a detailed examination of the "legality of the appearance of each name on substantially all state payrolls and accounts for personal service." This is an administrative task requiring a great deal of time, but it seems to be necessary in order to prevent the payment of salaries to any except those properly enrolled in the service of the state. The proper performance of this function was prevented in the state of Connecticut by the absence of departmental payrolls, and as a

³⁷*Report of the California Civil Service Commission, 1918, 8-9.*

³⁸*Report of the New York Civil Service Commission, 1919, 8.*

result the commission believes that salaries have been paid to many not properly in the civil service.³⁹

Promotion. Promotion in the civil service may be of two kinds; namely, an increase in salary with no alteration in status or in duties, or an advancement to a higher grade or rank with corresponding change in duties and salary. There is usually a salary range for each position in the service, the rate of compensation increasing regularly with the length of service. Consequently it is the second type which is properly spoken of as a promotion.

Most of the state laws provide that promotions shall, so far as possible, be made from among those in the same department or office. However, it is customary in the United States to give comparatively little weight to seniority in such positions; in New York it has been recommended that it be eliminated entirely as a factor in determining promotions. Most of the weight in determining promotions is given to service records in those states where they are kept, and to a competitive examination held to test the comparative ability of those who, according to the provisions of the law, are eligible to be promoted. If such an examination shows that none of those already in the service are competent to occupy the higher position, it is necessary to hold an open competitive examination, thus securing a better qualified outsider. In case the vacancy must be filled immediately a provisional or temporary appointment is made.

Suspensions and Dismissals. Since it is almost universally the practice to give the appointing officer the power to make suspensions for a limited period, such matters of discipline do not ordinarily come within the jurisdiction of the civil service commission, and are not a part of the administrative tasks of that body.

Similarly, in most states, the only function of the commission in dealing with removals is the receiving and filing of the appointing officer's statement concerning the reasons for the discharge. But in those states where the employee

³⁹Report of the Connecticut Civil Service Commission, 1920, 12-13.

may appeal his case to the commission this body must act as a trial court or appoint some other agency to act in this capacity and then report its findings and recommendations to the commission. In practice there seem to be very few appeals made to the civil service commission in cases of dismissal, and in nearly all cases the order of discharge is upheld by that body.⁴⁰ The Illinois commission has found it advisable to have a trial board composed of representatives of the commission, of the higher officers, and of the employees in certain institutions to handle such cases for these state institutions.⁴¹ Such agencies can avoid much of the delay that would otherwise be incurred, and also have the benefit of personal knowledge of the case under consideration. This system seems to have worked excellently in Illinois, both in the state and municipal service.

Training. Of course, it has always been necessary for many of those entering the civil service of any state to make special preparation for the examinations which they were required to pass. And in the same way, many of those in the civil service have undertaken some special course of study or training in order to fit themselves for a higher position. But this training has almost always been undertaken because of the personal initiative and ambition of the candidate or employee, and not because of the facilities offered for such training by the civil service commission. For this reason the question of training can hardly be considered part of the administrative duties of the usual civil service commission, and the subject will be treated in Chapter V.

Supervision of Local Civil Service. In the five states in which the state civil service commission also administers the county and town civil service the burden of administrative duties upon the state commission is increased very considerably. The customary method of administering the

⁴⁰See *Reports of the Ohio Civil Service Commission, 1918 and 1919*; of the *California Civil Service Commission, 1918*; of the *New York Civil Service Commission, 1920, 9*.

⁴¹*Report of the Illinois Civil Service Commission, 1917, 11.*

local civil service has been to have it done directly by the central state agencies, or, in some cases, by representatives of the state commission having charge of this administration in the locality in question. Ohio recently adopted a plan to have this done by county commissions in all counties whose payrolls are \$5,000 per month or more; in such cases the county commission is to be under close supervision of the state commission.

The New York senate committee on the civil service recommended that the state be divided into districts, corresponding to the judicial districts, for the purpose of administering the local civil service.⁴² Each district would be in charge of a "district examiner," who would have charge of the examination work for the county and smaller city services of his district, and also have general charge of the state examination work in that district under the supervision of the state examiner. Although he would not have direct control over the administration of the civil service in the larger cities in the district, he would be expected to keep in communication with them and coöperate with their commissions in all matters in which his advice might be of use to them. He would also be expected to act as the agent of the state commission in checking up on the procedure of these city commissions. A plan such as this would give the state authorities very frequent and direct supervisory agencies over the work of the local commissions, and at the same time lighten the burden of work upon the central agency.⁴³

Reports. All of the state civil service commissions are required to issue annual or biennial reports to the governor or legislature. Their reports deal with the work of the commission for the preceding period, usually including a statement of the number of examinations given, the number of appointees, the classification of positions in the classified service, the civil service law and the rules of the commis-

⁴²*Second Report*, 1917, 66ff.

⁴³*Cf. Report of the New Jersey Civil Service Commission*, 1921, 2, 3.

sion, and recommendations concerning the needs of the service. Most of these reports are brief and occupy only a small pamphlet of from forty to eighty pages, but those of Massachusetts, New Jersey, and New York are now much larger. It is obvious that the time and expense involved in the preparing and issuing of such reports is far from inconsiderable, and the value and possibilities of such an undertaking deserve consideration as one of the phases of civil service administration.

In general, it may be said that there are two important purposes for which a report is issued. The first of these is to present statistical data concerning the activities of the commission, and to set forth the methods employed by the commission of solving the many administrative problems that arise; this data and information being for the purpose of affording the state authorities a check on the work of the commission, and presenting valuable information to other state commissions which have to face and solve much the same kind of administrative problems. The second function is the presentation of such information concerning the civil service as will be of interest and profit to the public generally, and especially to those who are possible applicants for positions in the civil service. Both of these functions should be performed by an ideal civil service commission report, but, as yet, none of the commissions have issued such a report. That of New York has, until the last year or two, contained more statistics than most of the others combined,⁴⁴ but it does not deal to any considerable extent with the problems of administration, and certainly such a voluminous report would never be perused by the average citizen or a possible candidate for a civil service position. That of Wisconsin is undoubtedly the best so far as furnishing an interesting, readable, and instructive report for the public is concerned, but it is somewhat lacking in the fulfilling of the first purpose. The other civil service commis-

⁴⁴However, the Senate Committee on Civil Service has contended that this report "contains a great mass of material which serves no purpose." See *Second Report*, 1917, 449.

sion reports may be ranged somewhere in between these two.

It would seem that the best way of attaining both the needs of a civil service report is that recommended by the Massachusetts commission.⁴⁵ Under the proposed plan a limited number of copies of the complete report, giving all the necessary classification, statistics, and rules, would be printed for the benefit of the state officers and any others that might be interested in this information, while a special edition of the report, containing only so much as is of interest to the public and to possible candidates, would be printed in larger numbers for wide distribution. Such a pamphlet would not only save a great deal of the expense of printing the entire report, but would also find many readers who would never attempt to secure information from the larger and more formidable volume.

It has been recommended that reports of civil service commissions be standardized, as to form and content,⁴⁶ and the adoption of some such system (at least so far as the technical portion of the report is concerned) will make the reports of much greater value to other commissions and officers having to do with civil service administration.

⁴⁵See *Reports*, 1914, 13; 1915, 10-11, 18.

⁴⁶*Assembly of Civil Service Commissions, Proceedings*, 1919, 122-7.

CHAPTER IV

THE EXPERIENCE OF AMERICAN STATES WITH THE MERIT SYSTEM

1. OPINION AS TO THE SUCCESS OF THE MERIT SYSTEM

The merit system has now been tried in certain American states for more than thirty years. In others, the experience has been of shorter duration, but it would seem that in either case the test has covered a sufficiently long period of time to warrant an examination of the results of this experience. Accordingly, this chapter will deal with the accomplishments and failures of the merit system in American states, and with the defects in the existing systems as these have been made evident by the experience of the civil service commissions charged with their administration.

During the past few years a number of students of American government have commented upon the failure of the merit system in the several states to achieve what might be expected of it. Practically all of them agree that such systems have come far from accomplishing even a major part of what its most ardent advocates have always claimed for it. As an example of these comments we may take that of Mr. Herbert Croly. In summarizing the progress and accomplishments of the merit system in the states he makes the following comments:

It [civil service reform] meets at the present time with practically no open and influential opposition. Nevertheless, the 'merit system' has not met the expectations of its most enthusiastic supporters. Abuses have been abolished wherever the reform has been introduced, but the abolition of abuses has not made for any marked increase of efficiency. The civil service is still far from being in a satisfactory condition either in the central, state, or municipal offices. Moreover, the passage of reform laws has not had any appreciable effect upon the vitality or the power of the

professional politicians. The machine has, on the whole, increased rather than diminished in power during the past twenty-five years. Civil service reform is no longer as vigorously opposed as it used to be, because it is no longer feared.¹

It is at least questionable whether the facts in all cases bear out Mr. Croly's contentions, but at any rate the consensus of opinion among those who are familiar with public affairs is that civil service reform has failed to bring about any sweeping changes in the political life of the states in which it has been adopted.

2. FACTORS INFLUENCING SUCH EXPERIENCE

Lack of Consistent Popular Support. In attempting to evaluate the accomplishments of the merit system, it must first of all be borne in mind that this was a reform which attempted to change, almost overnight, the deep-set political ideas and customs of the mass of the people. The reform "in the main, has been an agitation carried on by a comparatively small, educated class,"² and the bulk of the electorate has never come to look upon long terms in office, and in fact anything savoring of a permanent office holding class, as desirable. The political theories of the masses change very slowly, and no reform depending, as does the merit system, upon the support of the electorate can hope to succeed until the people really support it in their actions at the polls. It is undoubtedly true that, with but a few exceptions, the people have not been sufficiently interested in civil service reform to demand a fair trial for it, and experience has made clear that the politicians have not hesitated to take advantage of this sentiment.

Political Propaganda. It is also to be considered that not a little of the unfavorable comment concerning the workings of the merit system is a part of, or a result of, attacks by politicians upon the system. Bryce observed that "the best men in both parties have supported the civil service

¹*The Promise of American Life*, 334-5.

²C. R. Fish, *The Civil Service and the Patronage*, 243.

commissions and would extend the scheme still further; the worst men in both would gladly get rid of it.”³ Most of the professional politicians desire a resumption of the spoils system with all the benefits that it brings to them and to their followers. And not only do their attacks on the system cause many citizens to distrust its extension, but they also influence the views of many of the writers upon civil service, causing them to believe that the merit system has been proved by experience to be a failure. For example, numerous attacks upon the merit system were made in 1915, in several states attempts being made to repeal or weaken the existing civil service laws, and the results of this propaganda are clearly reflected in the literature on political subjects published in this and the following years.

Political Opposition. When we encounter the frequently repeated charge that the merit system has failed to secure greatly increased efficiency, it is necessary to remember that civil service reformers in this country have had to fight so hard for the abolition of the spoils system that they have had little opportunity to inaugurate and install plans for the securing of more efficient administration. The contrast between the progress of English and American reform is brought out in the following extract:

The history of American reform is chequered and spasmodic. The course of English reform is remarkably steady and uneventful. With the exception of the reactionary scepticism of the Playfair report, English reform has the appearance of a force moving irresistably forward and driving patronage and incompetence before it. But reform in the United States has moved forward slowly and painfully; frequently it has stopped entirely, and at times it has actually been driven back. In the first decade of reform Congress simply withheld the appropriation for the tentative civil service advisory committee; and since the establishment of a permanent civil service commission, every President has had to resist the pressure of spoilsmen in Congress, and of the politicians outside. Almost every year has seen riders to appropriation bills providing exemption

³James Bryce, *The American Commonwealth*, (1910 edition) ii, 27.

from the classified civil service, promotion to temporary patronage appointees, transfers which violated the letter or the spirit of the civil service law, illegal participation of civil servants in elections and enforced contributions to party funds, four year tenure laws, dismissals for political reasons, appointments through senatorial "courtesy" and a dozen other forms of patronage and retrogression.⁴

William Dudley Foulke, a man of long experience with civil service reform, states that

Every president since the Pendleton Act has been personally favorable to the system and if left to himself would not only have enforced the law but would have extended its application more rapidly and consistently than was actually done. Yet each was subject to tremendous pressure not only from office seekers but from powerful organizations in his own party, a pressure so overwhelming that perhaps no man could wholly resist it, and the net gain was the resultant of two opposing forces.⁵

These are descriptions of the conditions existing in the national government, but none of the states have been fortunate enough to experience a much less troubled development of the merit system than has the federal government, and in the case of certain ones, the results, due to political attacks and adverse legislation, have been much more detrimental to the progress of reform. In Connecticut, for example, the General Assembly amended the original law so that any elective officer might exempt the employees of his department from the operation of the system, and the governor might exempt any department, board, or commission, or other group of employees. This proved to be merely the first step in the return to the spoils system, and the failure of the merit system in Connecticut is due, not to the weakness of the merit principle, for it has never been given a fair opportunity to demonstrate its value, but to a desire on the part of the politicians for a resumption of the spoils

⁴Robert Moses, *The Civil Service of Great Britain*, 246-7.

⁵*Fighting the Spoilsmen*, 257.

system. Because of the condition created by this enactment, and certain other defects in the law, also to be attributed to political opposition, the civil service commission pronounced the existing conditions to be intolerable, and recommended the repeal of the law, unless the General Assembly strengthened the law so that it would be reasonably effective.⁶ The General Assembly chose the former of the two possibilities, and Connecticut, is consequently the one instance of the repeal of a law designed to introduce the merit principle into the civil service.

In much the same way, the system that had been established in Colorado was so weakened by unfriendly legislation, including the withholding of necessary appropriations, that successful administration of the law was impossible. It was not until the system was firmly established in the Constitution of that state that a fair trial was assured.⁷

Political interests have not only weakened the systems by withholding necessary funds, and by passing other unfriendly legislation, but also by controlling the civil service commission. The commissions have in nearly every case been composed of men favorable to the principles of the merit system; men who have done the best that was possible with the opportunities open to them. But unfortunately there have been exceptions to this. New York has had the merit system longer than any other state, and we would naturally expect to find there the most highly developed and most effective system, but the continuity of progress in this state has been hindered by the political sympathies and consequent reactionary policies of certain of the civil service commissions.⁸

⁶*Report of the Connecticut Civil Service Commission, 1920, 5, 8.*

⁷*Good Government, xxxv, 181-183.*

⁸See the *Report of the Executive Committee of the New York Service Reform League, 1914, 24-44; Second Report of the New York Senate Committee on the Civil Service, 1917, 8.*

In *The City Manager in Dayton*, p. 39, Mr. C. E. Rightor gives an illuminating example of the use of the civil service commission by the politicians for partisan gains. There, under the former regime, the

It is obvious that when the effective popular support accorded the merit principle in the civil service is not strong enough to demand and secure an opportunity for a fair trial of the system, it is not the fault of the system if its achievements are short of expectations. And by the same token, the system is not at fault if the civil service commission charged with its enforcement is not faithful to its duties. Thus far in the progress of the civil service reform in the United States those interested in the merit system, including civil service commissioners as well as the laymen, have had to devote most of their time and energy to securing legislation and appropriations that would ensure an opportunity to develop effective means of bettering the public service, and in preventing the recurrence of the spoils system.

3. DEFECTS IN THE EXISTING MERIT SYSTEM

The experience of the civil service commission in dealing with the problems of administration under the merit system has made evident certain important defects in these systems as they now exist. Of course it is to be granted that there are certain inherent defects in any mechanical method of selecting human employees, but it is just as certain that many of the weaknesses attributed to the merit system can be remedied by appropriate legislation. It is the purpose of the following pages to first discuss those defects which it is alleged are inherent in the merit system, and then point out the more important of the defects which are due to faulty legislation.

Bureaucratic Government. In the first place it is charged that this system results in bureaucratic government; that is, that it produces a class of professional, permanent office holders who are not responsible to public opinion, which in

politicians were able, by controlling the commission, to force the employees to become a part of the political machine then in control of the city government or be discharged from the service and have better political workers put in their places.

turn results in a loss of popular interest in the government, and finally in the inability of the people to govern themselves. To a limited extent this charge is undoubtedly valid. But at our present stage in the development of governments, it seems that something in the nature of a "limited bureaucracy" is essential to governmental efficiency and economy.⁹ It must be remembered, however, that in the American civil service both the commission and the employees are directly responsible to political officers, and thus the chain of responsibility of the administration to the people is not severed. And further, as Professor Beard points out, in a country where we have many non-partisan organizations, schools and colleges, and periodicals not under the control of the party controlling the administration, watching it with critical eyes and ready at any time to voice disapproval of any official act, there is little danger of a strong privileged bureaucracy growing up.¹⁰

Examinations Necessarily too Academic and Impractical. A second objection to civil service reform is that the tests given to ascertain the proficiency of the candidates are too academic in their nature to really determine the ability of men to fill any save the simple or mechanical positions.¹¹ It is undoubtedly true that in the past this has all too frequently been a valid objection. Too much stress has been placed upon subjects that could be absorbed in a short time by a judicious system of "cramming," and too little paid to the more important elements of a good examination that test both capacity and training. However, such conditions are rapidly being remedied as will be pointed out in a subsequent chapter.

Attracts only Mediocre Men to the Service. Another contention is that the civil service has attracted none save those of mediocre ability. Again, we must admit the valid-

⁹Goodnow, *Comparative Administrative Law*, i, 16 ff.

¹⁰See chapter in Fitzpatrick (editor) *Experts in City Government*.

¹¹See W. B. Munro, *The Government of American Cities*, 280-4; Beard, *American Government and Politics*, 513; *Report of the Kansas Civil Service Commission*, 1918, 11.

ity of the charge in many cases, for the lack of opportunity offered by a career in the civil service, and the absence of the honor attached to public service in the United States has not been conducive to the securing of men of more than moderate ability and education.¹² However, it is believed that it is possible to remedy, to a large extent, this condition by appropriate legislation. And even if the presence of the "steady-going and unimaginative" in the civil service is a necessary adjunct of the merit system, it might be contended with some warrant that this class is more apt to give efficient service than the clever, even brilliant, but usually unstable civil servants attracted by the chances of the spoils system.

Efficiency of Employees. The most serious objection to the merit system is that the employees secured by this means feel too confident of their ability to hold their positions to believe it necessary to attain a very high standard of efficiency. If this is a just accusation, it is indeed a serious charge for the merit system to face. But, although there have been objections on this score there seem to be no more, if as many, from officers having employees in the classified service, as from those in other units of government where the employees are chosen by different methods. Furthermore, service or efficiency records are being devised which aim to remedy this defect, and if they prove to be successful civil service employees will be subject to closer supervision on the score of efficiency than any others in the public service.

Exclusion of the Higher Positions from the Classified Service. Perhaps the main cause for the failure of the merit system to achieve a greater success in the United States is the well-nigh universal policy of excluding the higher non-political offices from the scope of the merit principle. Nearly all of the state laws, as well as the federal act, provide for the exemption of the chief deputy or first assistant of each political officer.¹³

¹²Fish, *op. cit.*, 233.

¹³See *Reports* of the California Civil Service Commission, 1918, 34;

These [the steps that have been taken in the direction of the merit system] were undoubtedly seteps in a better direction; but they have failed to be effective, because the attempt to secure a more meritorious selection of public servants was not applied to higher grades of the service. At the head of every public office was a man who had been appointed or elected chiefly for partisan reasons; who served only for a short time; who could become familiar with the work of his office, if at all, very slowly; and who, because of his desire to be surrounded by his own henchmen, was the possible enemy of the permanent staff.¹⁴

There can be little objection to the filling by appointment of the offices of private secretary or private stenographer to such officers, although in some states where this has been the rule, the officers have preferred to fill such positions from the lists of applicants examined by the civil service commission. These employees serve in close personal relation with their chief, and their services are of a confidential nature in many cases. But it is a vital mistake in the system to exempt the chief deputy or first assistant from the civil service regulations. There is little foundation to the contention that personal selection is necessary to secure harmonious relations between the chief and his assistant, for the superior officer has, in nearly all cases, the power of discharge over his subordinates, and this can be used to get rid of any subordinate who refuses to work in harmony with the head. Moreover it is essential that the first assistants be members of the classified service. The political head holds office usually for a very short period, and the chief deputy should hold during good behavior in order to

of the Connecticut Commission, 1916, 6, 1920, 5; of the Wisconsin Commission, 1918, 14, 58; of the New Jersey Commission, 1917, 140; of the Kansas Commission, 1916, 7, 1920, 4; of the New York Commission, 1919, 21; of the Maryland Commission, 1921, 13. Colorado is the one state forming an important exception to the rule. Under the constitutional amendment recently adopted all higher positions in the executive service, with but few exceptions, are included in the classified service. See *Constitution*, Article XII, Section 13.

¹⁴Croly, *op. cit.*, 335.

furnish the element of continuity and expert experience necessary to efficient administration in any department or undertaking. President Lowell compares the relation of the political officer to his expert assistant to that of the jury and the judge,¹⁵ the latter giving the professional knowledge and advice that can only be gained by training and experience, the former giving the viewpoint of the layman and keeping the department in touch with public opinion. This reason for such a policy is very important, but equally necessary is the need for offering these higher positions as goals worthy of the best qualified men. Without such inducements, the best men can neither be brought into the service nor retained in it if any should once get in. Until the civil service offers a career that will tempt the class that now occupy the important positions in the business and professional world it must suffer from the lack of inherent ability and the training that efficiency demands.¹⁶

Low Salaries. Very closely related to what has just been said about the difficulties of securing the best men in the civil service is the question of salaries paid civil service employees. In this country no titles are conferred upon our civil servants, as is the case in many of the countries of Europe, and having no such appeals to vanity and love of distinction, which in effect double the salary received, it is necessary to pay our officials fair salaries, for otherwise the government cannot compete with private enterprise. A list of the resignations from the national civil service employees stationed at Washington, represents each year the departure of the best men in government offices to more lucrative private business positions. A study of such a list "will convince any honest Congressman of the need of a revision of our scale of salaries. In 1907 there were 15,289, and in 1908, 11,153 resignations from the United States Civil Service."¹⁷ This is just as true of the experience of the states. Many of the commissions complain in their

¹⁵*Government of England*, ii, 173, 182.

¹⁶Cf. McIlhenny in *American Political Science Review*, xi, 461.

¹⁷Moses, *op. cit.*, 267. For observations on the unusual conditions in war time, see Proctor, *Public Personnel Administration*, 10.

reports that the "high wages offered in private employment" makes it very difficult indeed "to secure an adequate supply of public employment,"¹⁸ not to mention the standard of efficiency of the employees that are secured. The simple facts are that in the past the civil service employees have rarely been paid high enough salaries to ensure really competent service, and competent civil servants never will be secured until the salary scales of the governments compare reasonably with those of private industry. Those who make up the man power of the civil service will, in very large degree, determine the success or failure of such a system, and until sufficient inducements are offered to the highest type of men, the civil service itself cannot be blamed for a lack of efficiency.¹⁹

Inadequate Powers Given to the Commission. One of the general faults in American legislation is the policy of attempting to fix all details by legislative decision and leaving too little to the discretion of the administrative officials who are "on the job" and in close contact with the changing needs of the service. This has proved to be the case with much of the civil service legislation; the civil service commission is rarely granted enough power to give to the service the flexibility that it should have. President Morrison of the National Civil Service Commission stated recently that the main reason for the inefficiency of the federal civil service commission is this lack of power. The commission uses all that Congress has granted it but this is far too little for the best interests of the service.²⁰ The experience of the state commissions has not been different from that of the national commission in this matter. They have found their

¹⁸See *Reports of Connecticut Civil Service Commission*, 1916, 4; of the *Colorado Civil Service Commission*, 1914, 26; of the *Kansas Civil Service Commission*, 1920, 24; of the *Ohio Commission*, 1919, 45; of the *Congressional Joint Commission on Reclassification of Salaries*, 40; of the *New Jersey Commission*, 1921, 19, 26.

¹⁹For observations on the class now in the Civil Service see Fish, *op. cit.*, 233-4.

²⁰*Proceedings of the National Civil Service Reform League*, 1919, 57. See also the *Report of the Congressional Joint Commission on the Reclassification of Salaries*, 11 ff.

powers far too restricted to permit of making many changes and reforms which the efficiency of the service demanded.²¹

Until our legislatures realize the need of permitting administrative agencies to have the power to deal effectively with administrative problems, these agencies cannot be held strictly accountable for the results accomplished.

Inadequate Funds. Another phase of the same problem is found in the failure of the legislatures to appropriate funds sufficient to enable the civil service commission to deal effectively with the problems of administration.²² Proof of this condition has been given, not only by the civil service commissions themselves, for it is but natural that they should believe their appropriation insufficient, but also by independent commissions and agencies charged with the duty of investigating and reporting upon the workings of the civil service system. In some cases these have been legislative commissions, and they naturally considered the needs of the civil service from the viewpoint of the authority which must bear the blame for higher expenditure, and yet almost invariably they have recognized the necessity of increasing the appropriations of the civil service commission, if efficient administration is expected of it. The New York Senate Committee on Civil Service stated that "the limitations of law and inadequacy of staff assistance have hampered the Civil Service Commission in perfecting a system of control to such an extent that the Civil Service Commission cannot be held responsible for present conditions . . .,"²³ and farther on it is contended that "the present

²¹See *Reports* of the Wisconsin Civil Service Commission, 1918, 57; of the Colorado Commission, 1914, 29, 32; of the Kansas Commission, 1916, 3, 4; and the *Report on the Classification and Salary Standardization of the New Jersey Civil Service* by J. L. Jacobs and Co., 1917, 14.

²²See *Reports* of the Colorado Civil Service Commission, 1914, 18; of the New Jersey Commission, 1915, 3; of the Kansas Commission, 1918, 6-8; of the Massachusetts Commission, 1913, 10-16; 1918, 12-13; of the Connecticut Commission, 1920, 12.

²³*Second Report*, 1917, 8.

staff is entirely inadequate even for the performance of the functions contemplated by the existing law and rules..."²⁴

Inequalities in Compensation and Duties. One of the most serious defects in the civil service systems of the American states, and one that has been due largely to the negative character of most of the reform thus far, is the too frequent lack of coördination between the work required of the various members of the civil service and the compensation attached to the position.²⁵ The following extract is descriptive of the conditions existing in New York (and these are typical of other states as well) prior to 1915:

In the history of the state government there has never been—and there is not at the present time—an exact or logical basis for fixing salary rates or titles or positions. Standards of compensation for specified kinds of work as a basis for making salary appropriations are unknown. Furthermore, positions are created for the most part without any definition of the work requirements or any real understanding of the work or needs to be served thereby. Civil service employments are, from the viewpoint of salary standards and related work conditions, in a chaotic state. The titles of civil service positions are misleading. Similar titles are applied to positions entirely different in character; different titles are attached to similar positions. The greatest disparity of compensation exists with respect to work of the same character or grade. Efficient service of a high grade, in a very large number of instances, receives but a low (and inadequate) rate of compensation; service of a low grade in an equally large number of cases receives a large (and excessive) rate of compensation. In other words, compensation bears little reference to the service rendered...

This lack of uniformity with respect to compensation and lack of exact definition of duty have in themselves led to injustice and waste. Overlapping of jurisdiction

²⁴Ibid., 19.

²⁵See *Reports* of the Colorado Civil Service Commission, 1914, 31-2; of the Connecticut Commission, 1920, 13; of the Illinois Commission, 1917, 7-8; of the Massachusetts Commission, 1918, 11; of the New Jersey Commission, 1918, 16-9; of the Wisconsin Commission, 1918, 59.

of employees within an office has resulted in wholly unnecessary duplication of work. Confusion in office and field practice, inconsistencies and lost motion are found in every division of service. Furthermore, these inequalities which in themselves represent waste, bear close relation to even more wasteful conditions. For they indicate a general laxity and looseness of administration which have multiplied employments wholly without reference to the service needs.²⁶

And not only is this condition of affairs responsible for wasteful expenditures and duplication of forces, but just as important is the fact that the injustice arising from the resulting inequalities in the conditions of employment "which permeated the entire system of civil service control, deadened the spirit and loyalty of the individual employees and impaired their efficiency."²⁷

Political Influences Upon Legislation and Administration. The inauguration of the merit system has prevented much of the influence which politicians previously exerted over the members of the civil service. But this has by no means been the case in all states. Of course, in those cases where the civil service commission is not given sufficient independence to prevent the politicians from bringing about a partial resumption of the spoils system, civil service reform is greatly hindered,²⁸ for where political influence still has an important part in determining questions of appointment, tenure, and advancement in the civil service, merit standards can never be secured; efficiency will too often go unrewarded and inefficiency, backed by political influence, receive the reward.

Retirement of Employees. A defect that is common to practically all civil service systems in the United States is the lack of any comprehensive retirement system for superannuated or injured public servants. In this respect the

²⁶*Report of the New York Senate Committee on Civil Service, April 19, 1915. Municipal Research, No. 67, 13.*

²⁷*Municipal Research, No. 67, 14.*

²⁸For a recent example of this sort of opposition to the principles and the practice of the merit system, see *Reports of the Ohio Civil Service Commission, 1918, 5, 1919, 3.*

United States is far behind other modern governments. Today civil service employees in this country are paid such small salaries that saving for old age is practically impossible. Because of the dislike of turning old and almost helpless employees out of the service in which they have worked faithfully for many years there have been many cases where the employees have been retained in the service and paid salaries long after their usefulness is past.²⁹

For a nation that has been so lavish in its pensions to the men who have served in the military forces, both in war and peace, the United States is criminally slow in inaugurating some system that will care for its aged civil servants who serve it equally well. Not only is the present policy expensive so far as concerns the payment of salaries instead of pensions, but even more important is the influence that the old and inefficient employees have on the young and ambitious ones. They set an example of slowness and incompetency that is harmful to the service, and fill positions that should serve as rewards of good service to younger and more competent men.

The growth of the retirement system in private industry in the United States during the past few years is the best possible indication of the fact that it is excellent business, and not merely philanthropy, to establish such a policy. "The question of superannuation is one linked with the study of efficiency in any service."³⁰ When such a system is finally adopted in each state, it will materially aid in making the civil service attractive to the most competent men, just as it has in other countries.

Lack of Service Records. Most of the state civil service commissions have instituted systems for the recording of the quality and quantity of service performed by the members of the classified service.³¹ But this has not always

²⁹See Fish, *op. cit.*, 241; *Proceedings of the National Civil Service Reform League*, 1920, 59-60.

³⁰*Second Report of the New York Senate Committee on Civil Service*, 1917, Part II, 9.

³¹See *infra*, 85.

been within the scope of powers of the civil service commission,³² and in a number of states where this power has been given to the commission the funds necessary to carrying out such a program have been withheld. The welfare of the service in either case has suffered correspondingly, for service records are both useful to the superior officers, since they can ascertain by means of such records the comparative merits of the several employees under their supervision, and just to the employees, since they afford the best means available of rewarding them according to their merits. Such a system, if it is well worked out, can but stimulate the employees to better service, inasmuch as they know that only by being more efficient can they expect promotion.

Minor Faults. Many of the civil service laws of the United States have accorded preference in the civil service to veterans of the military service. In so far as this preference is only where the veteran is as capable as his competitors, this has worked little harm; but when the laws have gone further, as they frequently have, they have resulted to the detriment of the merit system.³³ The government should by all means care for soldiers disabled in the service of the country, but to thrust them into the civil service over the head of more efficient civilians is unjust to the latter, who may have served their country in just as valuable a capacity behind the lines, and is moreover a very expensive method of granting pensions, for the example set by the inefficient veteran who is certain of his position regardless of the quality of his work, because he knows that the civil service authorities dare not dismiss him, is harmful to the discipline and efficiency of any office or department.

A number of state laws have limited applications to citizens of that state. Such a provision is not harmful so far

³²See *Report of the Colorado Civil Service Commission*, 1914, 15; *Report on Classification and Standardization in the New Jersey Civil Service* by J. L. Jacobs and Co., 14-15.

³³See Moses, *op. cit.*, 254; Fish, *op. cit.*, 238-9; *Report of the New York Civil Service Commission*, 1919, 19-21; *Good Government*, xxxvi, xxxvii, *passim*.

as the mass of positions in the civil service are concerned, but it does seriously, and unnecessarily restrict the civil service commission in securing men to fill positions that necessitate specialized training and experience.³⁴

It has been rather frequently contended that one of the faults in the civil service, as it is administered, is the difficulty of removal.³⁵ It is asserted that rules concerning removals in the present systems are too rigid to permit the removal of employees by the superior officer for cases of slight inefficiency, and consequently they remain in the service and lower its standards of service. This has undoubtedly been the case in some states, but such cases are comparatively rare, since the appointing officer usually has the power of removal also.³⁶

4. EXAMPLES OF THE RESULTS OBTAINED UNDER THE MERIT SYSTEM

In spite of the many opposing forces with which the merit system has had to contend and all the defects in the systems, there have nevertheless been a number of valuable results from the establishment of the system in the states in which it has been given a fair opportunity to demonstrate its worth. When we attempt to measure these accomplishments it is only just to the system that we compare the conditions existing in jurisdictions having the merit system with the conditions existing in corresponding divisions of government which remain under the spoils system. It is not fair to compare the results of the merit system with those secured by private industries which do not have to

³⁴See *Reports of the Wisconsin Civil Service Commission*, 1918, 57; of the Colorado Commission, 1914, 26.

³⁵See C. A. Beard, *American Government and Politics*, 513; Herbert Croly, *The Promise of American Life*, 335. It is the opinion of the latter that "The civil service laws have been designed to a very considerable extent for the purpose of protecting the subordinates against their chief..."

³⁶See 50-51, *supra*.

face many of the problems which must be overcome by agencies of the government.

The Padding of Employment Rolls. Before the adoption of the merit system it was long the policy of the political party in power to greatly increase the number of employees on the payroll just before elections, not because of any increased amount of work, but to afford a means of getting more political workers at the government's expense.³⁷

There can be no question but that under anything like effective civil service, this abuse is prevented, by the requirement that the civil service commission certify to the monthly payroll before a cent is paid for salaries. By this means a close check is kept on the number of those in the civil service and "padding" before elections is prevented.³⁸

Political Activity of Employees. Another condition which detracted from the efficiency of the service under the old system, and was a source of expense to the government, was the political activity of employees.³⁹ Those employees

³⁷"There had formerly been a great abuse in the way of employment of labor in the navy yards just before election and a law was passed prohibiting such employment except in case of urgency. The law accomplished nothing. Urgency was always declared. In the presidential election of 1888 the old system of appointment of laborers for political reasons obtained. On September 1 of that year there were 1,400 employees in the Brooklyn Navy Yard. On November 1 there were 2,500. By December the number had shrunk to less than 1,400. Over 1,000 men were employed during the two months before election, and were discharged inside of a month after election. That was in 1888.

"During the course of the next presidential term the service was practically classified, the registration system was established, and on September 1, 1892, 2,200 were employed. On November 1 there were 2,052 men. Instead of 1,000 more, 150 less were employed. On December 1 the same number were still employed." Assistant Secretary of the Navy Roosevelt in testimony before the Senate Committee on Civil Service, February 1, 1898. See also *Report of the United States Civil Service Commission* for the year 1887 for description of the waste due to this and similar abuses.

³⁸See *Reports* of New York Civil Service Commission, 1919, 8; 1920, 12; of the Connecticut Civil Service Commission, 1920, 8.

³⁹Fish, *op. cit.*, 234.

who were of greatest service to the politicians in power were assured of promotion whether they were at all efficient or not. In the same way the employees whose relatives or friends could exert sufficient political influence were assured of tenure, not during efficiency, but during the time which the party remained in power. Another condition tending to lower the standard of efficiency among employees was the solicitation, or rather the requiring of political contributions from them. It is obvious that all of these would increase the cost of governmental business and lower the quality of the services performed.

All of these evils are specifically prohibited in civil service laws, and penalties prescribed for their violation. Of course, the effectiveness with which the laws are enforced is another matter, but with some exception, a much higher standard exists in this connection than was formerly the case. On the whole, the separation of politics and administration is much more definite than formerly, and the result has been shown by the saving to the government.⁴⁰

Labor Turnover. Another saving attributed to the merit system is caused by the greatly decreased labor turnover. Under the spoils system a change of administration always means a sweeping change in the force of employees.⁴¹ Former Secretary of the Treasury Windam gave it as his experience that under the old system, prior to a change of administration, the work of the clerks in his department fell off nearly a half, and that it took the successors of those who were changed at least six months to learn their duties. This would mean, of course, that in presidential years nearly half the salary of the clerks was wasted, no return being obtained by the people for the amount paid out.⁴²

Under civil service laws a change of administration does not affect those in the classified service, and consequently, the state is not required to hire and train a new set of

⁴⁰See *The Business Value of Civil Service Reform*, *passim*.

⁴¹For conditions in Texas see Chapter VI.

⁴²*Sixth Annual Report of the United States Civil Service Commission*, 6.

employees every few years.⁴³ Where civil service has been at all effective this saving has been secured.

And that this is no insignificant saving is attested by the fact that private industries figure a cost of from \$10.00 to \$300.00 (depending upon the skill of the workman and the character of work he performs) for every man replaced.⁴⁴

In the business of government a similar loss occurs. It shows itself, however, not in a decrease of money dividends but rather in decreased service and increased cost. In the final analysis, however, it is just as truly a money loss as it is with the private industrial concerns. In states and cities not under civil service laws there is a general change of personnel with each new administration. In such cases there is not only the loss due to the cost and waste accompanying the breaking in of a new employee, but there is naturally a decrease in efficiency on the part of the old employee who knows that his job will soon be taken from him. The same shadow of uncertainty stretches back over his whole period of service, lowering the standard of his work.⁴⁵

Lessening of the Burden on the Chief Executive. One of our presidents is credited with having said, "the chief duty of the president is to make appointments." And under the spoils system this was no very great exaggeration. The same holds true to a somewhat lesser extent for the state governors. Excepting in those states which have the merit system, much of their time is taken up by applicants for minor administrative positions. The other heads of departments suffer the same experience. But in those states having a civil service system the employment problem is dealt with by a separate agency, and the important state officers are saved much time and trouble thereby.

Elimination of Superfluous Employees. Another saving due to the merit system has been the elimination of super-

⁴³*Proceedings of the National Civil Service Reform League, 1919, 61; Report of the New Jersey Civil Service Commission, 1917, 22-23.*

⁴⁴*Literary Digest, April 27, 1918.*

⁴⁵*Report of Wisconsin Civil Service Commission, 1918, 10.*

fluous employees in many positions.⁴⁶ It has been the experience of many states that positions have been created solely for the purpose of rewarding some political follower. With the installation of the merit system it has in numerous cases been possible to decrease the number of employees and at the same time secure a better type of service. For example it has been found, after careful investigation, that the individual in the unclassified service in New York receives three or four times as much for equal hours of work as an employee in the classified service.⁴⁷

Opinions Concerning the Success of the Merit System. But after all it is very difficult to secure any estimate of the achievements or failure of the merit system by presenting either arguments in its favor or by giving statistics showing the savings due to it (and which might possibly be due to some other cause). Many of the most important facts in the case would not be brought out in either treatment. Perhaps a better test of its value is to be secured from the opinions of those who have had enough experience with the system to be qualified to give an intelligent opinion.

In at least two instances the civil service commission has sent requests to the various administrative officers throughout the state for an expression of opinion regarding the administration of the civil service law in that state, and "especially as to the character of the employees obtained through the competitive plan of filling the positions covered by the service." In New York this communication brought a number of criticisms and suggestions concerning the administration of the system, but in no single instance did any officer favor rescinding the law and going back to the old system.⁴⁸

The Kansas request secured answers from nineteen state officers. All of them having employees in the classified serv-

⁴⁶*Report of Colorado Civil Service Commission, 1914, 9-11.*

⁴⁷*Report of the New York Civil Service Commission, 1919, 10-13. Proceedings of the National Civil Service Reform League, 1920, 38.* For many other examples of this saving, see *The Business Value of Civil Service Reform*, a pamphlet issued by the National Civil Service Reform League.

⁴⁸*Report of the New York Civil Service Commission, 1906, 10; Beard, American Government and Politics, 514.*

ice stated that the employees secured through civil service channels were satisfactory; in fact, the only answer received that could in any way be interpreted as hostile to the merit system was from an officer whose department included no employees appointed under civil service regulations.⁴⁹

During the past few years there have been a number of government commissions charged with the duty of investigation and reporting upon the work of the civil service commission in the states. These bodies have in several states made very exhaustive studies of civil service administration. It is worthy of note that, although all of them have recommended various reforms, there have been none to recommend the abolition of the merit system.⁵⁰

The electorate is not always an intelligent judge of the virtues or weaknesses of any proposed or existing method of securing governmental efficiency. But it seems that in certain states, where they have had the opportunity to learn something of the merit system through experience both with the spoils system and the reform, popular support of the movement is pronounced.

A popular vote favoring the extension of the merit system is usually carried in Illinois by a three to one or a four to one vote. That state has had twenty years' experience. The last time a poll was taken on the subject . . . all of the legislative districts, and all, save one, of the hundred and one counties placed themselves on record as supporters of the merit system.⁵¹

An equally hearty support was given by the electorate to the Colorado constitutional amendment after a reactionary legislature had in effect nullified the existing law.⁵²

⁴⁹*Report of Kansas Civil Service Commission*, 1918, 9.

⁵⁰See C. G. Haines, *The Movement for the Reorganization of State Administration*, for recommendations of commissions charged with investigation of the general organization of state government.

⁵¹*Proceedings of the National Assembly of Civil Service Commissions*, 1915, 73.

⁵²*Good Government*, xxxvi, 50, 60. See also *Report of the New York Civil Service Commission*, 1922, 12-18, for the results of the recent popular election in that state in which the merit principle was upheld as against a very harmful form of veteran preference.

CHAPTER V

RECENT TENDENCIES IN THE MERIT SYSTEM

Inasmuch as comparatively few states have as yet adopted the merit system, we cannot say that the reform stage in the civil service has passed in the United States; it would be nearer to the facts to say that for the majority of the states it has hardly begun. But it is also evident that in a number of those states which have the merit system the reform stage is rapidly passing, and is being replaced by another movement with a somewhat different purpose. For, during the past decade, and especially since 1915, there have been a number of important developments in the merit system, all of which have grown out of the general tendency to make the civil service more efficient. It is difficult, as yet, to secure accurate reports of the results of this new movement, but it is nevertheless believed that this tendency is so important in the development of an effective civil service that it warrants separate treatment, in spite of the fact that this will necessitate a certain amount of repetition.

Outside Agencies and Civil Service Progress. One of the important phases of this development is to be found in the reports of the various agencies which have investigated the actual workings of the merit system in certain of the states. They have been of varying kinds, including legislative committees, private firms, and bureaus of municipal research. All of them have had the assistance of men of long training in civil service administration. Certain of these investigations have been confined to but one problem in the civil service, as in the case of the report made on the New Jersey system by J. L. Jacobs & Company of Chicago, while others have dealt more extensively with the system in question.

Not only have these agencies made exhaustive investigations of the workings of the civil service system, but they have also made recommendations looking toward the better organization and administration of this branch of the state

government. These investigations and reports are exceedingly valuable in the development of more effective civil service, not only because they are made on the basis of careful studies into the practical as well as the theoretical side of the merit system, but also because they present the viewpoints of the outside expert in employment problems, and of the laymen, thus tending to prevent stagnation in administrative methods.

Another agency which has rendered valuable service in the movement for better civil service is the National Assembly of Civil Service Commissions. This organization brings together men who meet with much the same problems in the administration of the merit system, and who can aid each other by virtue of this common experience. These officials in their meetings deal not so much with the need of civil service reform in jurisdictions not having the merit system, this valuable service being performed by the National Civil Service Reform League, but rather with the problems and reform of the systems already in existence. The work of this organization, and of the agencies mentioned above, have formed the basis for many of the improvements introduced into the civil service systems of the several states.

Standardization. The development of the standardization movement is perhaps the most inclusive and far-reaching of all of the newer developments. This movement contemplates, in general, the adjustment of the position with the salary attached and with the requirements as to qualifications for appointment, and with the bases of promotion and of advancement within any given grade.¹ It might seem, at first thought, that these matters would be dealt with as a matter of course in the administration of the merit system. But experience has shown that such is far from being the case because of a number of reasons, chief among them being the lack of power given to the commissions and the lack of coördination between the legislatures and the

¹Cf. Proctor, *op. cit.*, 41 ff.

commissions. The failure to secure standardization is especially noticeable in the case of salaries, which usually have been determined largely by questions of political preference or expediency, or even by accident, "with little reference to the market value of the work performed."² Increases in salary have been governed by similar reasons and consequently have been "irregular, uncertain and too often without regard to the relative merits of the employees."³

The unstandardized conditions of most merit systems have been found to have a number of serious consequences. These have already been dealt with.

It is to remedy this condition of affairs that a movement for standardization in the civil service has been undertaken. The program of those who advocate this reform includes the following:

(a) A comprehensive classification of positions which will not only relate title to work and compensation but also set forth definitely the policy with respect to exemption and non-exemption from competition.

(b) A code of standard qualifications and regulations, with respect to entrance to the public service, which may be followed in advertising and conducting examinations.

(c) A code of regulations and standard qualifications to be observed in making promotions and transfers and keeping individual efficiency records.⁴

It is evident that if this is to be taken as the purpose of the standardization program it is a movement of great significance as regards effective civil service. It has been stated that the application of a comprehensive plan for the standardization of the civil service will have the effect of stabilizing employment conditions within departments, reducing labor turnovers, making the service more attractive to capable men, and increasing the employee's incentive for efficient service.⁵

²*Municipal Research*, November, 1915, No. 67, 17.

³*Municipal Research*, No. 67, 17.

⁴*Municipal Research*, No. 67, 18.

⁵J. L. Jacobs and Co., *Report on the Classification and Standardization of the New Jersey Civil Service*, 1917, 7.

Many of the civil service commissions have seen the need for standardization,⁶ but they have had neither the staff necessary to make a thorough investigation that is essential to the adoption of such a reorganization, nor the authority to establish such a plan. However, exhaustive studies have been made in certain of the states, including New York, New Jersey, and Massachusetts,⁷ and the reports of the investigating agencies illustrate clearly the conditions existing in the states where no steps toward standardization have been taken. In both New York and New Jersey complete plans for the classification of all positions in the service, and for the standardization of salaries, required qualifications, duties, and the basis of advancement and promotion were prepared. Under these plans, the entire service is divided into a number of functional groups, "services," or classes (the titles differing somewhat in the various states), and these major divisions are then divided and subdivided into sub-groups or grades. Each major group contains all of the positions having duties similar in standard of abilities or training required, and of the responsibility attached, and the sub-groups are similarly divisions based on the degrees of responsibility, and the nature of the work to be performed.

According to the latest information obtainable no comprehensive standardization law has yet been passed by the New York legislature, although the investigating commission which reported in 1916,⁸ estimated that the adoption by the state of a thorough standardization plan would reduce the state payroll at least two million dollars annually.⁹ In New Jersey alone has a complete standardization program met with the assent of the legislature. In that state

⁶See *Reports of the California Civil Service Commission*, 1918, 7; of the Connecticut Commission, 1920, 13; of the Illinois Commission, 1917, 7-10; of the Maryland Commission, 1921, 6.

⁷*Supplement to the National Municipal Review*, June, 1920, 395.

⁸*Report of the New York Civil Service Commission*, 1919, 25; 1922, 23.

⁹*First Report of the Senate Committee on Civil Service*, 1916, xiii.

the civil service commission has been given the authority necessary to put the plan into operation, and acting under this power the commission has begun the reorganization of the entire state service.¹⁰ Beginnings, on a smaller scale, have been made in certain other states, including Wisconsin, Ohio, and Illinois. However, these are but a start and no very important steps have been achieved. In Ohio, the question of salary schedules, an essential part of any plan for complete standardization, has been given careful consideration and a better plan than formerly existed adopted.¹¹

It is evident from the above discussion that although a considerable amount of progress has been made in the scientific study of standardization, there has been comparatively little application of the principles formulated as a result of this study to the state civil service systems.¹²

Examinations. In the case of the development of examination methods, a great deal has been accomplished during the past few years, both in the theory and practice. The reports of the several state commissions and of the Assembly of Civil Service Commissions are replete with statements of the advances made in this phase of civil service administration. This development has been made possible because it is usually within the power of the commission to modify or change the nature of the examinations as that body may see fit.¹³ Other reforms in the existing merit systems, in

¹⁰*Report of the New Jersey Civil Service Commission*, 1918, 16-18.

¹¹*Report of the Ohio Civil Service Commission*, 1918, 4; 1919, 7. A recent investigation of the Ohio Civil Service made by the Detroit Government Research Bureau resulted in the recommendation of a more effective and complete standardization system. See *Good Government*, November, 1920, 172.

¹²For a discussion of standardization progress in American cities, see *Municipal Research*, No. 76; for a discussion of the standardization movement in connection with the national government, see the *Report of the Joint Congressional Commission on Classification of Salaries*; see also Proctor, *op. cit.*, 48, ff.

¹³This has, however, not always been the case; see *Proceedings of the National Assembly of Civil Service Commissions*, 1916, 138.

many respects just as important as this one, have been hindered by the lack of proper facilities and authority to bring them about.

It is beyond the scope of this paper to enter into any discussion of the many problems which arise from the administration of civil service examination, and which must be dealt with by the civil service commissions and their assistants.¹⁴ However, the general trend in the development of examinations is significant, and is typical of the newer tendencies.

The ideal civil service examination of today aims to "test practical ability, grasp of fundamental principles, capacity for growth and fitness for the every-day work of the position in question, instead of testing the acquisition of a large number of facts."¹⁵ And in order to do this the former type of civil service examination has largely been discarded in favor of a number of new devices. Besides the actual examination on the knowledge of a certain kind of work, weight is given to training and experience, to tests of ability and adaptability, and in many cases oral examinations have been added.¹⁶ It is typical of the democratic nature of American civil service that a broad college education is rarely required, as contrasted with the English practice.

The nature of the examinations given by the several commissions vary considerably, but from this variation should come a more thorough knowledge of, and a more substantial progress in examination methods. The improvement in examinations in the past few years has been due mainly to the experience of the commissions and examiners, and future progress must, in the main, depend upon the same source.

Another important source of the improvement of exam-

¹⁴In the *Proceedings of the National Assembly of Civil Service Commissions* issued since 1914 valuable papers and discussions on many of these problems are to be found. See also Procter, *op. cit.*, ch. vi.

¹⁵*Report of the Wisconsin Civil Service Commission*, 1918, 29.

¹⁶*Report of the Massachusetts Civil Service Commission*, 1921, 9.

inations has been the information secured by the civil service commissions from employment experts in various lines of science and industry. All of the newer methods in examinations thus secured have not been found to be applicable to civil service needs, but, so far as these methods have been shown by experience to be of value, they have been retained.¹⁷ The coöperation of scientists and of specialists in different business enterprises in the actual giving of examinations has also been of value in the selection of men for the more responsible and important positions in the service.¹⁸

In the giving of examinations at the present time the importance which should be attached to the previous training and experience of the candidates is still a mooted question, but, on the whole, the weight given to these matters tends to be increased.¹⁹ In some cases the commissions follow the excellent policy of making enquiries of the former employees of the candidates concerning the competency and reliability of the applicants.²⁰

The oral interview is of especial value in higher positions, and in those positions where the official must come in contact with the public. It is "intended to take into account personality, manner and general appearance."²¹

One problem upon which employment managers both in the private and public service are working is the matter of testing ability and fitness for various kinds of work by means of some sort of psychological examinations. This

¹⁷See *Reports of the Ohio Civil Service Commission*, 1918, 7-8; of the Wisconsin Commission, 1918, 31.

¹⁸See *Reports of the New York Civil Service Commission*, 1919, 23; of the New Jersey Commission, 1918, 20; of the Wisconsin Commission, 1918, 39; of the Massachusetts Commission, 1915, 8.

¹⁹See *Proceedings of the National Assembly of Civil Service Commissions*, 1919, 132, ff.; *Report of New Jersey Civil Service Commission*, 1918, 19.

²⁰*Report of Wisconsin Civil Service Commission*, 1918, 35.

²¹*Ibid.*, 36. See also *Report of New Jersey Civil Service Commission*, 1918, 19-20.

scientific study of employment problems is receiving careful consideration by many of the civil service commissions.²² Among others the Wisconsin commission states that it is keeping in touch with the advances in this branch of science and has tried out some of the more common and better developed types of examinations, tests, for example, similar to those given in the army to all enlisted men. These innovations are first tried out as a separate part of the examination, and they in no way affect the standing of the candidates on these examinations. The results of the examinations are compared with the showing of the same men on various parts of the regular examinations, and as a result of this comparison the commission has a basis for the determination of the value of the devices and for what part of the regular examination they might be substituted.²³

Training for the Civil Service. The important question of securing adequately trained public servants and of improving the technical ability of those in the service is one that is beginning to receive special attention in certain states.²⁴ But in this as in numerous other movements for better civil service the cities have taken the lead; only one state—Wisconsin—having accomplished much in this direction.

It has been the usual policy of the civil service commissions to employ any man who happened to be out of a position at the time, provided he demonstrated some ability, or promise of ability to perform the duties of the office in question. This is, of course, not the fault of the commissions, but it is significant to contrast this with the conditions in private industry, which, in many cases, conduct expensive technical schools for the sole benefit of their employees;

²²See *Report of Ohio Civil Service Commission*, 1918, 8; *Proceedings of the National Assembly of Civil Service Commissions*, 1915, *passim*.

²³*Report*, 1918, 31.

²⁴For a brief discussion of the need for this movement, see *Proceedings of the National Assembly of Civil Service Commissions*, 1915, 93-95. Procter (*op. cit.*, ch. vii) gives a brief but valuable account of this subject.

some of them even going so far as select and train young people for posts requiring a high degree of skill or knowledge of a certain kind of work "so that as the older servants drop out the continuity of the service may remain unbroken. This is one of the most widely recognized necessities of modern corporate enterprise."²⁵

There have been several conferences for the discussion of the training of men for the public service, especially with the idea of utilizing the colleges and universities of the country for this purpose.²⁶ But as yet little has been accomplished. However, it seems certain that as this need comes to be more generally recognized and as the civil service comes to offer greater opportunities to capable men the movement will be given added impetus and the public service correspondingly improved.

In the training of those already in the civil service the Wisconsin commission has been the leader.²⁷ Going on the theory that "the main part of scientific employment begins after the act of hiring has been completed," and securing the active coöperation of the extension division of the state university and of specialists in various lines of industry a great deal has been accomplished to make the service more attractive to the capable and ambitious and to render the public servants more competent to perform their duties.

Thus far the program has not been extended to all branches of the service, but so far as it has been feasible to furnish this training, it is pronounced to be a "marked success," and, like the other movements in the civil service which aim to improve the standards of public service, the adoption of similar policies by other states is certain to follow in the course of time.

Service Records. The giving of examinations to candi-

²⁵*Municipal Research*, December, 1915, No. 68, 8-9.

²⁶*Ibid.* See also "University Training for Public Service," *Bulletin of the Department of the Interior*, 1916, No. 30, which contains a bibliography on this subject.

²⁷See *Report*, 1918, 40-46.

dates for the public service is the application of the merit system to the entrance into the service. The keeping of service or efficiency records "is applying the merit system, the same identical principle, to the daily work."²⁸ The keeping of service records is an essential to any well developed merit system, as those commissions who have not had the power or funds necessary to put such a policy into effective operation have discovered.²⁹

It is, however, difficult to formulate a system of records which work well in practice; some kinds that have been tried have failed because of the entrance of the personal equation to an undue extent, others because of their complexity and cumbersomeness,³⁰ while all are to a certain extent, defective because they are too mechanical in their nature. Because of these difficulties, and because of the necessity of varying the systems to fit the needs of the number in the civil service force, we can but expect the rating systems of the several states to differ in many respects. In general, however, they are based on similar principles. In all of them the superior officer is entrusted with the duty of marking the employees under him on the quantity and quality of their work, their punctuality, and on other matters which help to show the value of the employee to the service and his ability to hold positions of higher rank in case vacancies arise.

All of the service record systems now in use suffer somewhat from their mechanical qualities, they tend to give too little weight to managerial ability and inherent capacity. These are exceedingly difficult things to test, and as yet no accurate means have been devised to measure them, but then, as Dr. Moskowitz recently stated:

The next five, or ten, or perhaps fifteen or twenty years, or even a quarter of a century, we shall be ex-

²⁸*Proceedings of the National Assembly of Civil Service Commissions*, 1916, 23.

²⁹See pp. 69-70, *supra*.

³⁰*Proceedings of the National Assembly of Civil Service Commissions*, 1916, 18-21, 25.

perimenting in the field of efficiency records, just as in the field of examinations, and we can aid each other by securing what information we can concerning our own experiment; and some day we shall be able to apply more effectively the merit system to the problem of galvanizing the service after the people have entered it.³¹

Retirement Systems. As has been indicated, American legislative bodies have been chary of adopting plans to provide for the retirement of civil servants. To a certain extent this has been due to the ignorance on the part of the legislators of any other kind of a retirement policy than a huge pension list. A plan worked out on an actuarial basis in which the state and the employee each contribute a part would put no very great financial burden on the state, and would, in the long run, more than make up for the expenditure.³²

Two states—New York and Illinois—have retirement systems, but in these states they have not proved satisfactory because they were not established on sound financial principles; they consisted of no one unified system but of a number of uncorrelated parts; and they did not include the entire civil service. In both states investigations have been made of these systems and recommendations presented to the legislatures that a coördinated, inclusive, and soundly financed system be put in the place of the numerous unrelated systems now existing.³³ It is to be hoped that the legislatures of these and other states will give careful con-

³¹*Proceedings of the National Assembly of Civil Service Commissions, 1916, 31.*

³²G. E. Buck, "An Actuarial Retirement System," in *Good Government*, xxxv, 137-140. For a comprehensive treatment of this subject see Lewis Meriam, *The Principles Governing the Retirement of Public Employees*.

³³*Report of the Illinois Pension Laws Commission, 1918-1919; Second Report of the New York Senate Committee on the Civil Service, 1917, Part II.*

sideration to these reports and to the need for such systems in the civil service.³⁴

Summary. It has been the purpose of this chapter to point out certain of the lines along which the newer movement in civil service reform is developing. In some phases of this movement comparatively little has been accomplished, in others much more. But, viewing the movement as a whole, it is evident that there now exists a distinct tendency to render the merit system not only a means of keeping the spoilsman out, but also of getting and keeping the best employees in, and not only keeping them in, but also training and encouraging them to be even better qualified to perform efficiently their share of the state's work. In short, the aims and tendencies of this movement point to the positive qualities of the merit principle rather than to the negative kind of civil service reform.

³⁴See *Proceedings of the National Assembly of Civil Service Commissions*, 1916, 44, ff.

CHAPTER VI

THE PROBLEM OF THE CIVIL SERVICE IN TEXAS

1. REQUIRED QUALIFICATIONS FOR OFFICE IN TEXAS

There exists in Texas no state-wide civil service law, but it is none the less evident that there is, and has been for a number of years, a decided tendency away from the old idea that any man of average ability is qualified to fill any public office. This tendency finds expression in the qualifications required for the greater part of the statutory positions created during the past thirty years. Most of the activities in which the state and cities have begun to participate during this period have been of such a nature that some expert training has been required to render the higher officers capable of discharging the duties of their positions. And we find that in the acts creating most of these positions this condition has been recognized and the appointing authority required to select a man having certain minimum qualifications, thus ensuring at least some specialized training on the part of the appointee to the office in question.

One of the first of such positions is the office of Commissioner of Agriculture, created in 1887. Although this is an elective office, the act provides that such officer shall be an experienced farmer, and in addition have a general knowledge of other forms of industry.¹ From such indefinite statement of qualifications, the specified requirements for office-holding in certain positions have been made more definite and exacting during recent years. For example, in 1909 the office of State Reclamation Engineer was created and it was stipulated that the appointee to this office must be a thoroughly experienced and skilled topographer, hydrographer, draftsman, and reclamation engineer, and must have had not less than five years' actual experience in the

¹*Revised Civil Statutes*, Title 65, Article 4435.

organizing and supervising of geodetic and topographic surveying and mapping of large areas, and in general direction of field and office engineering corps; that he must be thoroughly experienced in making and passing upon reclamation plans and estimates, and in the preparation and writing of technical reports and publications, and in the reproduction of maps.² In 1917 the office of State Highway Engineer was created with the highest salary of any state office. The appointee to this office must be a civil engineer having experience in highway construction and maintenance and must be a graduate of some first class school of engineering,³ one of the few examples in Texas of the slight tendency to place some weight on training secured in institutions of higher education. Other offices in which such qualifications of training, or practical experience, or both, are required are those of Dairy and Food Commissioner, Health Officer, Librarian, Chemist, Entomologist, Forester, Veterinarian, and members of the Industrial Accident Board, of the Livestock Sanitary Commission, of the Board of Public Accountancy, and of the Board of Examiners of Cotton Classers.⁴ It will be noticed that all of these positions are technical in their nature; clerical positions ordinarily have no stated qualifications required.

This tendency is also found in certain county offices created in recent years, as the county engineer, health officer, and superintendent of public instruction.⁵ It is found to a much greater extent in Texas cities. Practically all of the larger towns and cities in Texas have taken advantage of the Home Rule provision in the Constitution and have adopted new charters calling for the commission or commission manager forms of city government. In a num-

²*Ibid.*, Title 83, Article 5529d.

³*Ibid.*, Title 119, Article 6904½d.

⁴See F. M. Stewart, *Officers, Boards, and Commissions of Texas*, for qualifications of these and other positions.

⁵See H. G. James, *County Government in Texas*.

ber of the offices created by these charters, and in lesser offices created by ordinance, more or less stringent qualifications are required of the appointees to many of the city offices. Because of the extension of municipal activities during the past two decades, many new offices requiring expert knowledge have had to be created, and it is for these that certain qualifications are exacted.

This tendency is a desirable and a necessary one in view of the duties of these officers, but such restrictions fall far short of bringing a real merit system, for they apply only to the higher positions, there is no method of enforcing conformity to these provisions of the law, and, above all, they in no way prevent the ejection of all such officers when a new administration comes in, for the tenure of such positions is usually two years. It is evident that something more must be done if Texas is to have anything approaching a real merit system. Certain steps toward a merit system have been made in this state, and it is proposed to review them briefly.

2. MUNICIPAL CIVIL SERVICE IN TEXAS

There are only two cities in Texas having civil service laws that apply to some of the city's employees:⁶ Houston, where a charter provision providing for civil service was adopted in 1913, and El Paso, where a similar provision was adopted in 1917.⁷ In both cases the charter provisions are brief, setting forth only the main outlines of the system. In Houston this provision has been expanded by an ordi-

⁶An election is to be held in San Antonio in the near future in which a charter amendment providing for a civil service law will be submitted to popular vote.

⁷The Texas Constitution provides (Art. XVI, Sec. 30) that no officer shall hold office in Texas for a longer term than two years. However, in the case of *Callaghan v. McGown*, 90 S. W. 319, it was held that municipal civil service was not contrary to this provision, inasmuch as "such language would be construed to mean that such appointees shall hold their office during good behavior and not exceeding the constitutional limit."

nance and by the civil service rules of the commission, while in El Paso the expansion has been secured by rules alone.

These civil service codes are much the same as those of the usual municipal civil service system in the United States. They provide, first of all, for civil service commissions composed of three members appointed by the mayor and council for terms of two years. In Houston one member must be a member of the council, while in El Paso the chairman of the police and fire department is an advisory member without a vote. In both cases the members serve without compensation. The Houston system provides for the appointment by the mayor of a secretary, who is also to be chief examiner, while in El Paso the commission selects its own secretary.

The El Paso civil service system includes members of the police and fire departments only. In Houston the system includes all employees of the city excepting heads of departments, chief clerks, day laborers, and certain other specified officers.

The El Paso commission is given power to provide for the classification of employees of the police and fire departments, make necessary rules for the carrying out of the system, give examinations, and certify successful applicants to the appointing authority. The Houston commission is also given the rule making power, but "all rules made by the commission may be changed or amended by the city council."⁸ It is also provided by the Houston charter that "no rules or regulations shall ever be adopted which will permit the appointment or employment of persons without good character or unfit and incompetent to discharge the duties thereof or prevent the removal or discharge of any appointee or employee for want of fitness, moral character, or competency, or the failure or refusal to properly discharge the duties of his appointment or employment."⁹

The provisions regarding probationary appointments are

⁸*Report of the Houston Civil Service Commission*, 3.

⁹*Ibid.*

much the same, excepting that the term is twelve months in El Paso and eighteen in Houston. Probationary appointments are to be made only for new appointees; not in the case of promotions. The superior officer may discharge the appointee during the probationary term if he is found to be incompetent, and so certify to the commission.

Employees already in the service retain their positions in El Paso and are put on the classified list. In Houston they must serve the ordinary probationary period of eighteen months, subject to removal during this period, before they are placed in the civil service.

In cases of removal the decision of the civil service commission is final in both cities. The appointing officer may suspend, the employee being given the right to appeal to the commission within ten days. The commission shall then hold a public investigation of the case, in which hearing the judgment of the officer making the suspension shall be presumed to be correct and the burden of proof placed on the employee. The head of the department may suspend, for disciplinary reasons, for periods not longer than fifteen days.

The Houston code provides that "examinations shall be practical in their nature and character and shall relate to those matters which will fairly test the relative capacity of the person examined to discharge the duties of the office, position, or place to which he seeks to be appointed."¹⁰ No question in any examination may relate to political or religious opinions or affiliations. The commission is given "direct charge and control of all examinations of whatsoever character."¹¹ The El Paso provision is practically the same.

In both cities it is stipulated that an eligible list is to be made up containing the names of all those who pass the examination; and in case of a vacancy the highest on the

¹⁰*Report of the Houston Civil Service Commission*, 8.

¹¹*Ibid.*

list is to be certified to the appointing authority who is required to appoint this applicant, unless, for good reason, the commission agrees that such appointment should not be made, in which case the next highest is appointed.

The Houston system provides that the commission may exempt from examination, or from competitive examination, any office which requires specially trained men. Since the El Paso civil service system includes no such positions, there is no provision for exemption.

The keeping of efficiency records is provided for in both cities, and consistently low averages on such records are sufficient grounds for discharge. The quality of work, discipline, and attendance are the factors stressed in these records.

The limited extent of the El Paso system permits of relatively simple classification. The positions included in the Houston civil service are classified into classes, grades, and groups; and salaries vary according to the division in which the position is found. Advancement from group to group within any grade is based upon efficiency and seniority, the weight of the former being twice that of the latter. Promotion from grade to grade is accomplished in both cities by means of competitive examinations held among those in the same service but in a lower grade. If not more than one candidate registers, or if all fail to pass such test an original entrance examination is held.

Applicants for the service in El Paso must be citizens of the United States and have been residents of El Paso for at least one year. They must further be between the ages of twenty-one and thirty-five years. The residence requirement may be waived in the case of men discharged from the military service of the United States who have been for thirty days a resident of El Paso. The rules further provide that "in an examination for any position requiring technical, professional, or scientific knowledge, or for the good of the service, the commission may waive the requirement of age and residence."¹²

¹²*Report of the El Paso Civil Service Commission*, 11.

The commission is given authority in both cities to secure the aid of outside experts in any examination requiring technical training, or it may delegate some person in the city service to help in giving the examination.

Because of its greater scope, the Houston system is preferable to that of El Paso. In other respects it is evident that they are, on paper, much alike. Some of the more obvious defects of the two codes are the restriction of examinations for promotion to higher positions to members of the service, a system that tends to produce in-breeding and stagnation; the power held by the Houston City Council to overrule the civil service commission in any of its regulations; and the appointment of the secretary of the Houston commission by the mayor instead of by the commission. The commission should be held accountable for the results that it secures, and in order to do this it must have sufficient independence and power to secure them. Other defects found in the two systems are common to practically all in this country and have been discussed in preceding sections or will be dealt with in the following chapter. The commissions of these two cities are to be commended on the progress that has been made in the classification of positions, and in attempting to secure a higher standard of efficiency in the giving of examinations and in the keeping of service records.

In order to obtain first-hand information as to the success of the civil service systems of Houston and El Paso a questionnaire was sent to a number of present and past public officials in each city. All except one of those answering expressed the opinion that the merit system had proved a success; and on the basis of the trial in their city these men who had had actual experience with employees secured under the merit system favored the extension of the plan to other cities and to the state and county service.

The one unfavorable reply was received from an El Paso official who opposes the system on the grounds that the "requirements are not enforced or followed in employment, and there is too much 'red-tape' and expense in dismissals

for cause." These conditions are, of course, due to defective administration, and other replies from the same city make it evident that the El Paso law has not been broad enough in its scope and effectively enough carried out to secure entirely satisfactory results.

The consensus of opinion among Houston officers seems to be that the civil service is not clearly enough separated from the political officers to secure a thoroughly non-partisan and independent administration. Other defects pointed out are the failure to even attempt a solution of the retirement problem and the interference by department heads with the operation of the system.

But, in spite of the defects in the laws, these merit systems have demonstrated to the satisfaction of critical judges their value in securing employees to deal with the many problems of modern government, and in all probability it will not be very long before other Texas cities follow the lead of El Paso and Houston.¹³

3. STEPS TOWARD STATE CIVIL SERVICE REFORM IN TEXAS

The history of state civil service reform in Texas is the record of things attempted rather than of accomplishments. The merit system has been advocated by a number of political platforms in Texas, and in only one—the Republican Platform of 1914—do we find any statements contrary to the purpose and spirit of the merit system. In this platform the Republican Party put itself on record as favoring "limitations to periods of service in office,"¹⁴ a policy that would make the merit system an impossibility. The Democratic Platform of 1892 demanded that the "offices of the government cease to be a matter of arbitration, favoritism, and patronage, and again be a post of honor."¹⁵ The Dem-

¹³A bill has been introduced in the regular session of the Thirty-eighth Legislature providing for the creation of a pension fund for firemen, policemen, and fire alarm operators in the cities and towns of Texas.

¹⁴E. W. Winkler, *Platforms of Political Parties in Texas*, 603.

¹⁵*Ibid.*, 46.

ocratic platforms of 1882¹⁶ and of 1902¹⁷ contained planks more definitely in favor of the merit system, and that of 1912 specifically favored the merit system, recommending "that the next legislature enact such a law."¹⁸

In his message to the legislature in January, 1913, Governor Colquitt stated that

The platform [that of 1912] calls for the enactment of a civil service law for Texas, and it is hoped that one will be passed . . . The law should extend to all departments, . . . persons passing required examinations and showing fitness for the work to be done should not be subject to removal on account of political affiliations or partisan preference. The law should also provide, as does the federal statute, that they would be removed for partisan activity, incompetency, or other good cause, but not because a clerk or other employee was not a partisan supporter of the head of any department.¹⁹

In his message to the following legislature Governor Colquitt repeated this recommendation.²⁰

Governor Hobby was especially earnest in urging such legislation. In his message to the Thirty-sixth Legislature, January, 1919, he said:

I recommend that the legislature pass a law instituting the merit system, in so far as it may be applicable, in all the departments and institutions of the state. . . . I recommend the creation of a Civil Service Commission, with power to classify the various positions in the public service, except the appointive officers of the Governor, and to provide, by examination and otherwise, for testing the qualifications of the persons to be employed in the state's service.²¹

Governor Hobby also suggested in this message that the cities and counties of the state be permitted to make use of the state's civil service commission in selecting their

¹⁶*Ibid.*, 210.

¹⁷*Ibid.*, 450.

¹⁸*Ibid.*, 582.

¹⁹*House Journal*, 33 Legislature, 49.

²⁰*Ibid.*, 34 Legislature, 59-60.

²¹*House Journal*, 36 Legislature, 95.

employees. In his message to the second called session of the same legislature he again urged the desirability of merit system legislation.²²

The first state civil service law to be proposed in Texas was introduced in the Thirty-second Legislature (1911), sponsored by thirteen members of the House of Representatives.²³ The measure was referred to the Committee on State Affairs and was reported favorably by that body, January 27, 1911.²⁴ On the second reading the bill was amended in a number of important provisions. Where originally it had applied to all counties in the state, it was changed so that it applied only to those counties that voted to adopt it. A number of salaries were reduced, and a provision inserted requiring that "so far as practicable the list of eligibles certified shall be equally distributed among the senatorial districts of the state," and similar restrictions applied to the distribution of local eligible lists.²⁵ This measure, as amended, never came to a vote, but died on the speaker's table.

A similar measure was introduced by Mr. Humphrey in the Thirty-third Legislature.²⁶ The bill was reported favorably by the Committee on State Affairs,²⁷ but it seemingly aroused very little attention, for no further record of its progress can be found; it was neither voted upon nor amended.

What was true of the Thirty-third Legislature was equally true of the three succeeding legislatures.²⁸ In each regular session a civil service bill was introduced by Representative Tillotson, who has, since 1913, taken the leading part in this reform, and in each case the bill was favorably reported by the Committee on State Affairs; but in no single

²²*House Journal*, First and Second Called Sessions, 36 Legislature, 142.

²³*House Journal*, 32 Legislature, 151.

²⁴*Ibid.*, 330.

²⁵*House Journal*, 32 Legislature, 568-570.

²⁶*Ibid.*, 33 Legislature, 145.

²⁷*Ibid.*, 333.

²⁸See *House Journals*, 34, 35, 36 Legislatures.

instance has a vote on such a bill been taken. In a recent communication Mr. Tillotson states that "the reason more progress has not been made seems due to the general indifference, and the feeling that the number of employees involved would not justify another commission or department." The proposed measures have aroused little, if any, outspoken antagonism because they have not been pushed aggressively, their proponents believing that it would be impossible to secure passage of effective civil service legislation until more favorable sentiment exists both in the legislature and among the electorate.

The bill introduced in the last legislature differs but little from previous measures. It was prepared by Mr. Tillotson with the aid of the secretary of the National Civil Service Reform League, and has been submitted to several state commissions, all of whom have approved it.

The proposed measure is very similar to the laws of the states that have already adopted merit system legislation; it has both their defects and their merits. A rather unusual amount of power, however, is granted to the civil service commission by the bill, especially in the classification of the members of the civil service and in the administration of the system in local areas, the measure providing for the adoption of its provision by any city or county which might desire to do so. In view of this very extensive power, it is evident that the success or failure of the system must depend upon the zeal and ability of the commissioners and it would certainly seem desirable to pay them more than the small per diem provided by the bill. The salary provided for the trained and experienced expert of the commission—the secretary and chief examiner—should also be made sufficient to secure a man of both ability and training.

4. DOES TEXAS NEED THE MERIT SYSTEM?

The lack of success that has thus far met all proposed civil service laws in Texas, excepting the municipal systems of Houston and El Paso, raises the question as to whether

this failure is due to lack of need for the merit system, or to the failure of the electorate and the legislature to understand the harmful effects of the spoils system and the extent to which such evils can be remedied by the adoption of the merit system.

The Spoils System in Texas. Every state and local official in Texas and every citizen who is at all familiar with existing conditions in this state knows that it is the usual policy to have a general house-cleaning of practically all subordinate officers and employees after each change of administration. This policy varies somewhat in city and county government, but with few exceptions they adhere rather closely to the old dictum that "to the victors belong the spoils." In the state departments and offices rotation in office is the accepted rule.

Examples of this policy are found in the Texas newspapers of January 13 and 14, 1907, wherein are to be seen items stating that every department head in the state government is new to his office, whether it be elective or appointive.²⁹ A few days later items began to appear telling of new office forces in every one of these departments.³⁰ Four years later the same clean sweep is made. In the *Fort Worth Record* of January 21, 1911, a statement appears to the effect that "all of the appointees will qualify at once, and by Monday the various departments will be presided over by new heads, and for the most part by entirely new forces." On one occasion Governor Colquitt sent in one hundred and twenty-five names to the Senate to be ratified. It was but recently announced that fifty-eight of the sixty-five employees in the office of the state comptroller would be dismissed and replaced by appointees of the new comptroller.³¹

It is evident that the spoils system exists in Texas today. In fact, it is so contrary to established precedent for a newly elected or appointed department head to retain the major

²⁹*Austin Statesman*, January 14, 1907.

³⁰*Dallas News*, January 21, 26, 1907.

³¹*Dallas News*, January 22, 1921.

part of the employees already in the state service that the newspapers deem such actions worthy subjects for "feature stories."³²

Governors' Opinions. Some ten years ago Governor Colquitt recognized that the conditions brought about as a result of the spoils system needed to be remedied and recommended the merit system as the solution to the problem.

With the change of administration in any executive department there is generally a change of clerical help, resulting in injury to the public service, and requiring more persons to do the work than would be the case if experience and competency, not mere partisanship, were the rule . . . There is no doubt in my mind but that the clerical work of the state could be performed with fewer employees, and more efficiently, if they were required to labor eight hours per day, and the labor is done by competent and experienced persons.³³

Six years later Governor Hobby stated that

The constant removal in the clerical forces of the departments of those who have acquired knowledge of the state's business to make room for others results in keeping the state's service in the hands of beginners. Under this system the ship of state is forever manned by raw recruits. A few years ago, the head of one of the most technical departments of the state government announced immediately after his election that he would make a clean sweep of the employees in his department. He kept his word and retained only the janitor. He admitted afterwards that it took six months for his new appointees to acquire a reasonable facility in the business of the department . . . I believe that such a measure (civil service law) properly carried out will add immeasurably to the efficiency with which the public business is transacted.³⁴

Five months later his message contained further recommendations concerning the merit system.

The administration of the affairs of the State of Texas has come to require the service of so large a number of persons, many of whom must possess special

³²For example see *San Antonio Express*, January 21, 1921.

³³*House Journal*, 33 Legislature, 49.

³⁴*Ibid.*, 36 Legislature, 95.

qualifications for the most efficient service, that it is manifestly wasteful and destructive to good public service to continue longer the haphazard policy founded upon political favoritism in the selection of employees of the state . . . I cannot too strongly urge upon the legislature the importance of well considered legislation calculated to place Texas in the front rank of the states applying tests of individual fitness to those who enter its service. Efficiency in administration, economy in expenditures, and good public policy each call for the establishment in the state of a sound, practicable civil service system.³⁵

Both Governor Colquitt and Governor Hobby had had considerable experience with the spoils system when these messages were written, and they were in a condition to recognize the effect that such a system has in increasing the cost of state government.

The Democratic Platform of 1912 contains a paragraph very similar in tone to the two quotations given above.

The merit system would enable the state to have its work done with fewer clerks and consequently with less expense. There would be no partisan service expected of those holding clerical positions under civil service regulations; neither would the head of a department or institution keep an incompetent person through political influence. The public service would be greatly benefited by such a law.³⁶

General Reasons for the Adoption of the Merit System. All of these recommendations are based on the same principle; namely, the need of securing and retaining trained and competent public servants in administrative positions. There has always been a need for continuity of policy and of competency in the ordinary sense of the word, but never has the need for specialized training been so great as it is today. The growth of government services "has created an unprecedented demand for experts in the public serv-

³⁵*House Journal*, First and Second Called Sessions, 36 Legislature, 141.

³⁶Winkler, *op. cit.*, 582.

ice.”³⁷ It is almost impossible to secure competent experts when they realize that their tenure is likely to be of short and uncertain duration. And even among the minor employees, those requiring little or no specialized training, there is need for diligence in the performance of their duties, but this is not to be expected when they realize that discharge and promotion depend, not upon efficiency with which they perform their tasks, but rather upon the political influence which they can exert upon the officer who appointed them. The mismanagement of the penitentiary farms in Texas, the keeping of their books in such a manner that expert accountants could not even ascertain the amount of debt or the reasons for it; the wastage of \$200,000 in attempting to construct and operate a state iron foundry at Rusk, when experts could have told that there could be no possibility of success in such an undertaking considering the conditions that existed there, the mismanagement of the state prisons, are all due in large part, according to Professor Miller, to the lack of trained service and of continuity of policy, or to put it in briefer form, to the spoils system.³⁸

These examples are but a very few of the many cases of mismanagement and extravagance that exist in this state, and that should be attributed to the inefficiency of the public employees of the state. It is impossible to estimate the saving that would accrue to the state and local governments in Texas from an effective merit system, but from the savings that have undoubtedly been secured in national, state, and local governments where the system has been tried, there can be no doubt that it would be very great, for not only would the large number of surplus employees be dispensed with but those who remained would be required to perform efficient service.

The adherents of civil service reform today place their support of the system upon its actual business value to the public, rather than upon any theoretical arguments of its

³⁷A. N. Holcombe, *State Government in the United States*, 338.

³⁸E. T. Miller, *Financial History of Texas*, 256-258, 261.

value in destroying the spoils system. It cannot be doubted by anyone who investigates the conditions that determine the selection and removal of the greater part of the public employees in Texas, and the standard of service that they perform in office, that some form of the merit system would mean a decrease in the cost of performing public services and more efficient service as well. When the people of the state become aware of the conditions in Texas as compared with those in states where merit system has been given a fair trial, their indifference to the adoption of such a system will disappear.

5. OUTLINES OF A MERIT SYSTEM FOR TEXAS

The conditions that determine the success or failure of any governmental institution in Texas are not very different from those in other states. Consequently in planning a system of this nature for Texas, we should base our decisions largely on the success or failure that has met similar systems in other states, thereby profiting by the experience of the other states which have been experimenting with civil service reform for periods of from five to thirty-seven years.

The essentials of a good merit system may be set forth as follows:

Entrance on merit.

Introduction of standards that will secure efficient service.

Promotion according to faithful service and competency.

Tenure during satisfactory performance of duties.

Reasonable care in old age or in case of injury.

It is to secure these conditions that merit systems have been developed. The construction of such a system involves constitutional and statutory provisions and the rules of the civil service commission. A discussion of the rules to be adopted by the commission would be out of place here; this part of the system must be constructed and modified to fit the needs of the service as they arise. The constitutional and statutory provisions provide the foundation and frame

of the structure, the rules of the commission complete the structure and provide for its furnishing.

Constitutional Basis. First of all the merit system should have a constitutional basis to ensure a fair trial. Otherwise it is easily possible for a reactionary legislature to destroy the system before it has had an opportunity to prove its merit to the people. The constitutional provision should be short and general in its nature in order that it may permit of flexibility in the development of the merit system. An example of such a provision is that recently adopted by the commission on revision of the Pennsylvania constitution as part of its recommendations.³⁹ It is practically the same as that in the New York constitution and very similar to that of Ohio. A longer provision has been recommended by the National Civil Service Reform League.⁴⁰ The detailed provisions of this might render desirable, or even necessary changes in the system very difficult of attainment. The experience of Texas with the rigid and detailed Constitution of 1876 would seem to indicate that a shorter provision is more desirable.

Statutory Provisions. The civil service act should also be rather short, leaving many matters to be provided for as the experience and expert knowledge of the commission and its advisers may demonstrate to be most desirable.

The first essential of a good civil service law is the inclusion of the higher offices in the state, other than those which are political and policy-determining in their nature, in the classified service.⁴¹ There is a great need for a reorganization of Texas state government in the direction of the combination of the many scattered offices, boards, and commissions of today into a few large departments.⁴² The

³⁹*Good Government*, xxxvii, 93.

⁴⁰*Proceedings*, 1920, 13.

⁴¹See McIlhenny, "The Merit System and the Higher Offices," *American Political Science Review*, xi, 461.

⁴²See C. G. Haines, *The Movement for the Reorganization of State Administration*, for an account of the progress in this direction in other states.

heads of these departments should not be included in the civil service because they are the policy-determining, political officers of the administration. But all of their subordinates, with very few exceptions in special cases, should be in the classified service, thus providing trained service in responsible positions, expert advice to the head of the department, continuity of policy, and rewards for efficient and faithful service on the part of the subordinates. Under the present organization of Texas government all of the elected officers, officers whose mode of selection is fixed by the constitution, the members of most of the boards and commissions, and certain other appointed officers as the Adjutant-General, the Commissioner of Agriculture, the Commissioner of Insurance and Banking, and the teaching staff of public schools, should be exempt from the classified service. All other positions should be included in it, unless experience shows this to be inadvisable.

There have been several cases where civil service commissions have been replaced by a single officer, e.g., Australia and Maryland, and some have advocated the extension of this plan.⁴³ But the majority still favor the three-man commission, inasmuch as it is a policy-determining body. The commission should be appointed by the Governor, for a term of six years, the members retiring biennially. It has also been contended that the members of the civil service commission should be selected by means of examinations,⁴⁴ and hold office during good behavior, and even that they should themselves be members of the classified service,⁴⁵ in order to make them independent of political authority. But the danger in this plan is that such removal will put the commission out of touch with public development and public needs.

⁴³See paper of H. N. Saxton in *Proceedings of National Assembly of Civil Service Commissions*, 1915, 99.

⁴⁴See *Draft of a Standard Civil Service Law* prepared by the National Assembly of Civil Service Commissions, 8-9.

⁴⁵This is the case in New Zealand, Australia, and Great Britain; see *Proceedings of National Assembly of Civil Service Commissions*, 1915, 112.

The civil service commission should be held responsible for the success or failure of the merit system and it must have power commensurate with this responsibility. It should be given the authority that will enable it to fill in all the gaps in the civil service law, and to meet all of the emergencies that arise. In order to have a flexible and efficient system it should have the power to classify all positions in the civil service, and to fit the salary to the position. Statutory regulation of such matters makes for rigidity and extravagance.

The experience of state-wide civil service in Massachusetts, New York, and New Jersey shows the value of state supervision over the local administration of the civil service.⁴⁶ It is advisable that the larger cities have separate commissions to administer the law for that city, subject to state supervision, for the number of employees involved warrants a separate commission. But in the case of the towns and counties, where there are but a few employees under the civil service, it would seem desirable to have the system administered directly by the state commission through its agents, or, as provided in the model law of the National Civil Service Reform League, by a local commissioner appointed by the appointing authority of the locality on nomination of the state commission, such commissioner to be a member of the classified service.

The matter of examinations is largely a matter for the civil service commission to determine and work out. The law should, however, provide for the employment of such experts by the civil service commission as may be necessary in giving highly technical examinations, as has been done in New York, Massachusetts and Wisconsin.⁴⁷ There should also be provision for the coöperation of the commission and the heads of the various departments in the filling by examination of vacancies in that department, in order that the best qualified men may be secured and harmony maintained between the commission and the heads of the administra-

⁴⁶See *National Municipal Review*, iii, 325.

⁴⁷*National Municipal Review*, iii, 305.

tion. Examinations, at least for the more important positions, should be open to residents of other states as well as this one.

The Ohio plan is perhaps the best in dealing with the employees already in the service. They should be retained but required to take an examination within twelve months to determine their fitness for the duties they perform. By this method incompetent political appointees can be weeded out of the service.

There is no objection to giving preference to honorably discharged veterans of the military service, providing they are as well qualified as their competitors to discharge the duties of the office for which they are applicants. But further preference has proven itself to be harmful to the efficiency and discipline of the service, and is likely to prove more expensive by far than a pension system.

It is advisable that the two or three applicants standing highest on examinations be certified to the appointing officer, from which list he may choose any one. Inasmuch as he is responsible for the administration of his department he should have this discretion in selecting his subordinates.

Promotion should be upon the basis of service record, seniority, and a special examination designed to test the ability of those in lower positions to discharge the duties of the office in question. If it is found that there is no one already in the service who is thoroughly competent to fill the position, an examination open to anyone should be held to fill it.

There seems to be a tendency today to give the commission or some special board final authority over removals.⁴⁸ The model law of the National Civil Service Reform League embodies this policy. But there is also decided opposition to this method of removal by many who have had experience with civil service administration.⁴⁹ It is my opinion that

⁴⁸For an exposition of the position of the advocates of this policy, see F. G. Heuchling, "Methods of Removal from the Civil Service," *National Municipal Review*, vii, 587, ff.

⁴⁹See Wm. Dudley Foulke, *op. cit.*, 266 ff., 365 ff.

the giving of this power to the commission protects the employee at the expense of the discipline and efficiency of the service. The department head should have power to dismiss employees because of inefficiency or laxness in cases where a formal charge could hardly be substantiated. It would seem to afford ample protection against unfair dismissals if the federal policy in this respect were followed. At the most the commission might be empowered to investigate in cases where political or other motives than the good of the service are the reasons for the discharge, and if, after investigation, such is found to be the case, to reinstate the employee. But even this would tend to divide responsibility, and might serve to restrict necessary discipline.

The civil service law should also provide for a retirement system for aged or disabled civil servants. Such a system should probably be constructed on a contributory basis, the amount paid by the employee varying with his salary.⁵⁰ It should be state-wide in scope, inasmuch as it would be impracticable for small cities, towns, or counties to provide such a system. Provision for old age or disability would do much to offset the high salaries paid in private industry, and to make the public service attractive to the most competent men.

The Basis of Lasting Reform. Finally we must remember that a provision of the constitution or a law on the statute books cannot ensure a thoroughly successful merit system. A great deal must necessarily depend upon the ability and zeal of the civil service commission. But even with the best of civil service commissions the proper administration of the law and the rules of the commission can be ensured only by the development of public opinion in favor of the system to the extent that the electorate will demand the employment and organization of efficient employees, and will require of these servants of the public the same standards of service that are required in the best private enterprises.

⁵⁰See G. E. Buck, "An Actuarial Retirement System," *Good Government*, xxxv, 137, ff.; L. Meriam, *Principles Governing the Retirement of Public Employees*.

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